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THE TURNING POINT IN AMERICAN LABOR POLICY

THE New Deal program of social reform, which began with the passage of the National Industrial Recovery Act in June 1933 and, presumably, ended with the adoption of the Fair Labor Standards and Railroad Unemployment Insurance Acts of June 1938, has completed its first phase. On the whole this ambitious undertaking, perhaps the most extensive of its kind in modern history, was launched and developed under unusually favorable conditions. The Administration which sponsored the program was convinced of its inevitability and soundness and regarded the measures we adopted in these five years as only belated steps designed to raise our labor standards to the levels allegedly reached long before in the more progressive industrial countries of the world. The men and women chosen to administer these laws were, with rare exceptions, vigorous supporters of specific pieces of legislation and zealous advocates of this type of reform. Even the courts, a formidable impediment in the first years of the period to the survival and enforcement of many laws, began shortly, as a result of the force of public opinion and changes in their membership, to sanction both the policies of the new statutes and the administrative principles and practices growing out of them.

The first results of the parts of this policy, which relate to working conditions and labor relations, must have surpassed the fondest expectations of the most ardent of its friends. The wages of industrial labor mounted so swiftly that they soon

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exceeded the rates paid in 1929 and 1920—both boom years in the history of American business. The work week was generally reduced and by the end of this period was substantially one eight-hour day shorter than at any previous time. In spite of the professed disappointment of the labor unions with their progress under the National Recovery Administration, the effects of the eventual invalidation of the Recovery Act by the United States Supreme Court, and the early difficulties encountered in enforcing the National Labor Relations (Wagner) Act, the growth of organized labor was phenomenal. Union membership increased more rapidly than during the years of the World War. By 1939 the combined membership of the several components of the labor movement was estimated by the unions themselves at eight millions, or some three millions greater than the all-time peak of 1920. Union contracts were made with many of the largest corporations of the country in industries which had for generations succeeded in operating under non-union conditions. The terms of these contracts introduced into an extensive segment of industry comprehensive systems of rules and regulations directly affecting the manifold functions and practices of both management and labor. The political influence of organized labor kept pace with the expansion of its economic and industrial power. It stood high in the councils of local and national government. Much of the legislation it espoused was adopted; the policies it favored often guided the decisions of governmental departments and officials; and it may be credited with no small influence over appointments to public office.

As these gains accumulated the labor relations of the country appeared to become subject to new and unforeseen strains and stresses. The position of trade unionism was weakened by internal dissension. Doubts arose as to the validity of many of its policies and tactics. The public showed signs of losing some of its first enthusiasm for organization and collective bargaining and, particularly, for the methods employed to encourage the rapid spread of both. In the process the laws governing trade unions and labor relations and the administrative agencies set up to enforce them were criticized and

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attacked even by unions. There were indications, in fact, that the government itself was less than satisfied with some of the consequences of its own labor policy.

In the current discussion of these questions, much is made of the inexperience of the army of administrative officials appointed since 1933, the natural blunders and inefficiencies of unions no more than two or three years old, and the period of time which must be expected to elapse before both industry and labor can hope to adjust their conduct to the drastic revision in public and private labor policy required by the body of legislation enacted in recent years. These are, of course, influential factors. They help to explain some of the extremes to which organized labor went in 1937 and the crudities of behavior associated with our newer administrative agencies. But, although time may well succeed in smoothing the rough edges of administration, it may be more accurate to attribute the American labor problem, as it exists today, to organic defects in our present labor policy and the means we use to effectuate it, than to such passing influences as youth and inexperience.

The corner stone of our policy of labor relations is the Wagner Act. Other labor legislation more or less supplements this statute. The Fair Labor Standards Act, for example, regulates wages and hours in those industries and establishments in which there is no organization of labor or existing unions are too weak to fix and enforce standards of hours and wages. In the same way the Walsh-Healey Act fixes the labor standards of firms doing business with the government. If that Act were amended in accordance with the wishes of the C. I. O., firms charged with unfair labor practices would be barred from government contracts until they were purged of the charges and the Walsh-Healey Act would become another powerful instrument for enforcing the Wagner Act. In a sense, though much more indirectly, social security legislation has a similar purpose. Thus, from one point of view, this collection of labor laws might be regarded as interim measures whose function it is to pave the way for the organization of labor.

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Since the prime objective of our labor policy is the more or less general unionization of labor, the results of the policy can be best studied by looking at what has already happened under the Wagner Act. This Act is, of course, a many-sided one and much can be learned from a review of all of the numerous principles and practices of labor relations which have recently won the sanction of government. But among the many developments associated with the short history of this law, the most far-reaching and, I think, the most unexpected are the increasing control by government over the structure and activities of unions and the reactions of government to the growing economic power of organized labor. It is at these points that there is mounting dissatisfaction with the labor policy of this country and that one may anticipate the most vigorous efforts to amend existing legislation.

The power of government to control unions is derived mainly from those sections of the Wagner Act which are concerned with the determination of bargaining units, the conditions under which representation elections may be held, the form of the ballot, and the majority rule. These sections are so broadly drawn that they empower the administrators of the law to put a union out of business, favor one organization against another, virtually disfranchise substantial bodies of voters, and, for all practical purposes, destroy minorities, large or small. Whatever the intentions of the Congress, several years of experience with the Act show pretty conclusively that it can be administered in this way. To the extent that it continues to be so administered, government agencies will be tempted to assume increasing control over the unions and substitute their own opinions and inclinations for those of the true beneficiaries of the law—the employees.

Choice of the bargaining unit is one of the critical features of the law. The exercise of the right to fix the unit is at the bottom of the dispute between craft and industrial unions and the larger conflict between the C. I. O. and the A. F. of L. The fact is that the Labor Relations Board, as it interprets the law, has put itself in the position to decide which of these two competing labor movements shall survive in this country.

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Similarly, the Board, by a procedure not far removed from gerrymandering, can make it possible for any union to win or lose an election held under the Board's auspices. The following excerpts from communications between agents of the Board in the famous Eagle Picher case illustrate how such a procedure works.[1]

This case of a complaint by a C.I.O. union against a mining company, operating separate plants and departments, raised the usual issues as to the appropriate bargaining unit. With respect to this issue, a representative of the Board wrote to the Washington office as follows:

> The question is this—should the complaint be amended so as to set up bargaining units for each of the companies . . . or are we compelled to regard employees of both companies as being one unit. . . . Did the men coming in concert to see Potter [vice-president in charge of labor policy of both companies] thereby represent at the time that all, together were one bargaining unit? Is the situation ambiguous because, prior to the act, single committees had approached the managers of their respective plants? Under the latter view, we should have a better chance, since we might be able to make out a majority in at least one branch of the service of one company, whereas should we have to show a clear majority taking all the employees of both companies together, the International Union might stand to lose out altogether.

A later letter from the same representative to the associate general counsel of the Board said:

> Your memo dealing with the determination of the proper bargaining unit . . . should be of distinct assistance. The question is raised because it had been my thought to plump for such units as would result in union majorities wherever possible. It is now my understanding that we are not necessarily committed to any particular unit . . . and [I] will be free to plump. . . .

[1] Verbatim Record of the Proceedings of the House Committee Investigating Labor Board and Wagner Act, vol. II, No. 10, p. 344, Bureau of National Affairs, Inc., Washington, D. C.

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These communications elicited this reply from an employee of the Board in Washington:

> I presume that by this time you have discovered what the appropriate unit is and have introduced sufficient evidence to convince the Board that such is the appropriate unit, that the union represents the majority of the employees in that unit, and that the respondent or respondents have refused to bargain with the representatives of the employees in that unit.

This situation, which is so frankly discussed by the agents of the Board, is not an isolated one. It recurs in various forms throughout the Board's proceedings. An interesting and, perhaps, simpler example of the flavor of the Board's decisions concerning bargaining units may be found in this account [2] of a case involving the Newspaper Guild and the Boston Globe.

> In the Globe case a contract covering editorial room employees only had been made early in 1937 between the Guild and the company. The following year another contract was made expanding the unit to include the building maintenance employees as well. In neither of these contracts did the company require the Guild to be certified as representative. Early last year the Guild opened negotiations for a new contract and at that time advised the company that it represented not only the employees covered by the then existing contract but also employees in certain departments on the commercial or business side of the paper. This the company disputed and a Labor Board proceeding was filed. In that proceeding the company's position was that, as the Guild did not have a majority in the business departments, the employees of those departments should constitute a separate unit from the editorial and maintenance employees, or as an alternative, that the commercial employees should vote separately to determine whether or not they desired to be added to the unit claimed by the Guild. The Guild admitted its lack of a majority in the business departments, but offered proof, consisting principally of unsupported statements of Guild officers, of majority representation in the broader unit. What the Guild was trying to do here was to use its excess

[2] Sidney Jackson, "The NLRB and the Editorial Rooms", *Labor Relations Reporter*, vol. 6, No. 8, p. 257.

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majority among editorial and maintenance employees to force business employees also into the unit, and this against the will of those employees.

This issue in the Globe case was clear cut. It was not complicated by conflicting claims of other unions. The Board held against the company. It refused to order a separate election for business employees, but, instead, held that one election only should be held among all of the employees in the unit claimed by the Guild. There was little to justify that decision. It is true there was some overlapping of particular employees between the editorial and business departments. The Board spoke of the "functional coherence" and "interdependency" between employees of the various departments of the paper. The record showed, however, a wide separation of function between nearly all the editorial and business employees. Also there appeared the usual long continued history of craft union representation. All of this was ignored. The Guild, however, lost the election.

It is difficult, in the Boston Globe as in the Eagle Picher case, to see what principles and motives inspired the Board's action unless it was the belief that the Wagner Act required it to do whatever is necessary to increase a union's membership and extend the area of its control. Certainly in newspaper publishing the history of collective bargaining, to which the Board appeals in so many of its unit cases, affords more than ample warrant for setting up separate bargaining units in the various departments of the business. For in this business the printing trades have maintained one of the oldest separate systems of collective bargaining in all of American labor relations. Furthermore, as the newspaper business tends to become more fully organized, it is strongly to be doubted that the economic interests of the several groups of employees will be best served by membership in a single union.

This issue of the choice of bargaining unit has arisen in one of its most significant forms in those cases in which the Board has seen fit to establish regional units, or where it has combined the separate plants of a firm into a single unit. For in these instances the Board, in one way or another, has been really disposing of minority groups, whether organized or unorganized. Thus in the matter of the longshoremen of the west

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coast, the Board established a regional unit and designated the C.I.O. union as the exclusive bargaining agent for the whole of the west coast. By this decision, the A. F. of L. union which had a majority in several of the ports, though not in all of them together, was shorn of its functions and, hence, doomed to extinction. Similar decisions in both the bituminous and anthracite coal industries, where the Board recognized district or regional and industrial units, were bound to have the same effect on the Progressive Miners, an A. F. of L. union which is competing for membership in the coal industry against the C.I.O. United Mine Workers. What the Board is really doing by means of such decisions is to make it a virtual impossibility for new unions to challenge and displace old and established unions. For union organizing is notoriously a slow, tedious and piecemeal process. If unions, in order to win representation rights, must wait until they have won over the majority of the employees of a whole district or region, their chances of eventual success will prove to be indeed slim. The logical outcome of this policy, moreover, is toward the establishment of national, industrial bargaining units, whereby national unions would bargain with national associations of employers. Whether or not Congress had such a development in mind, it is clear that setting up arrangements of this type in the basic industries of the country would produce consequences that go far beyond the mere administration of labor relations. For the practice of joint national relations between labor and capital may be expected not to stop with the fixing of wages and working conditions but to move shortly to price-fixing and the control and allocation of output and other matters, as indeed it has already done under the sanction of law in the bituminous coal industry.

The power to determine the bargaining unit, combined with provisions of the Wagner Act that representatives chosen by the majority within a specified bargaining unit are the exclusive bargaining agents of labor, can be used not only to decide the issue among competing labor groups but, perhaps more important, to eliminate minority groups altogether. This in substance is what has happened to the A. F. of L. longshore-

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men's unions of the Pacific coast and to many other groups as well. When the majority rule, as a principle of labor representation, was first discussed in Washington several years before the Wagner Act was adopted, much was made of the analogies between political and economic democracy. But little attention was paid, then or later, to the critical fact that in the organization of democratic government, minorities retain their rights of representation and, more important still, the opportunity to convert themselves into majorities. In the application of our present labor law, certainly no such consideration is given the minority, and public policy, if it can be called that, is to reduce labor minorities to impotency as quickly and as effectively as possible and, better still, to get rid of them completely. The effect of the Wagner Act, as it has been thus far administered, has been pretty generally to disregard the rights of minorities. How, in practice, the minority loses its identity is described by an informed and experienced observer of current labor relations.[8]

> I have seen, and many of you who know industry have seen, a union that claimed a majority but had not obtained a closed shop contract, force members of a minority union, or employees who would not join the majority union, out of the plant. We have seen them do this over and over again with varying degrees of violence. In other instances, members of this union objected to working with employees who did not belong, or who belonged to a minority union, and they booed them, threatened them in the shop or at home and generally made them miserable. . . . A minority seems to have a right to have the employer not cooperate in this kind of thing. . . . Whether an employer's failure to prevent it is an unfair labor practice, the decisions do not enlighten us.
>
> A frequent provision in a contract with a majority union not, however, containing a closed shop agreement puts stewards or officers of the majority union at the head of the seniority list, although they would not otherwise have seniority, or lets representatives of the union have special leave of absence to do union

[8] Nicholas Kelley, "How Does One Know a Minority When He Sees It?", *Proceedings of the National Lawyers' Guild Conference, January 12-14, 1940*, Washington, D. C.

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business without losing seniority. In various instances, these arrangements may perhaps not be discriminations, but would seem at any rate to be contributions of support, other than financial, to the detriment of minority employees not members of the union and would seem to be prohibited. . . . I do not know . . . of any instance in which the Board has acted on this kind of a case.

If one may venture a personal opinion, it is that an important right of the minority is to continue in organized existence in the hope of becoming a majority before the other majority shall have annihilated it . . . by obtaining a closed shop agreement or by that process that we all know so well, of making the lives of the minority unbearable. The provisions [of the Wagner Act] that I have mentioned appear intended to protect the minority against the employer's joining in this hazing. Many a supervisory executive, however, quietly gets rid of the minority for the sake of peace and production. . . . Nothing in the Act protects the minority against this kind of thing by the majority. Everybody who knows about industry in a practical way knows that the protection that the law of torts and that the local police authorities can give against it does not amount to anything. At present, only the employer's own discipline can protect the minority. When he exercises it, every member of the majority union with a straight face testifies against him to unbelievable statements and he is lucky if he escapes being punished for an unfair labor practice.

In addition to the control over unions that the Board derives from its power to fix units, it can exercise equally effective control through the way it handles the many steps in taking a labor poll and determines the content of the ballot. This is a large question which deserves separate and extended discussion. But one aspect of it — the treatment the Board accords company dominated unions — should be considered if only for the light it throws on the capacity of the Board to apply different solutions to what on their face appear to be identical problems and situations.

By the terms of the Wagner Act, employer domination of a union is an unfair labor practice, and the Board has the authority to take requisite action with respect to organizations

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so dominated. Many cases of this type have been brought before the Board. In deciding them the Board has observed two diverse principles of settlement. In a series of cases involving A. F. of L. unions, found to be employer dominated, the Board has ordered the employer to "cease and desist" from dominating and assisting the union but has left the organizations intact. It has even, after a period of probation the length and character of which are fixed by the Board, placed the name of the offending union on the ballot in a representation election. The same procedure, however, is not followed with company dominated plant, company, independent, or inside unions. In their case the Board not only requires the employer to "cease and desist" but also "disestablishes" the union, or puts it out of business and, hence, makes it ineligible for a place on the ballot.

Why the Board has failed to observe equality of treatment is by no means clear, unless it has concluded that one type of union is superior to or better than another. But such a conclusion would appear to be beyond the powers of the Board. The fact is, however, that the Board probably has no other reason than that. For in an extended discussion of this whole question before the House Investigating Committee, all the Chief Trial Examiner of the Board could say was:

> . . . with respect to A. F. of L. unions the Board has not seen fit to say that they must go out of business, but that the company must stop doing those acts. . . .
>
> The Board has found that interference and acts of the company have so penetrated into the whole structure of the independent union that you could [not] simply by erasing those acts relieve that organization from domination and control by the company.[4]

This evidence of clairvoyance on the part of the Board can hardly be considered the basis of sound public policy. For the consequences of disestablishment are drastic and final. What it means is that employees are not even given the opportunity to record their approval or disapproval of such organizations, although some of them had been in existence for

[4] *Op. cit.*, vol. II, pp. 162 *et seq.*

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twenty years or more. Evidently it is the Board, and not the employees, who decides what is good for labor.

That the Board itself has doubts as to the validity of this policy is clear from the kind of explanation it placed before the House Investigating Committee. At one point the Board's representative explained its position by implying that it was the local A. F. of L. unions that were company dominated, while their parent bodies, the national unions, were free from domination and hence capable of correcting the ways of their local units. But this is obviously a specious explanation since in the Consolidated-Edison case, where the Board found a local of the International Brotherhood of Electrical Workers to be under company domination, the national union was clearly a party to the proceedings and, if there was guilt at all, as much of it attached to the national as to the local union. Indeed, the Board had every reason to know that there is no valid distinction to be drawn between company dominated unions for the fact was brought forcibly to its attention by one of its regional directors in the following memorandum:

> We will be careful not to allege any activities of the employer regarding the formation or encouragement of the A. F. of L. union. I do not agree with the Board in making fish of one and fowl of the other on this . . . phase of the Act. I sincerely believe that when an employer is known to have instigated, encouraged, and supported an A. F. of L. local in his plant, he is just as guilty of violating the Act under 8 (2)[5] as an employer is guilty of establishing an employees' association.[6]

While the Board was thus asserting its authority over unions and thereby molding the form of the American labor movement, it was at the same time busy promoting unionism and contributing all of its influence to the expansion of organized labor. The results of the Board's activities are well known. The old, established unions, with rare exceptions, multiplied

[5] Section 8 (2) of the Wagner Act provides: "It shall be an unfair labor practice for an employer to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it."

[6] *Op. cit.*, vol. II, p. 163.

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their membership, and new unions sprang up throughout American industry. In a few years the American labor movement had become a force to reckon with. And the purpose of the Wagner Act—to convert a non-union into an organized industry and thereby to replace individual with collective bargaining — was being accomplished more rapidly than most people thought possible.

No sooner were these developments under way than the federal government began to worry about some of their consequences. In 1936-37 it was deeply concerned with the sit-down strikes and the problems of law-enforcement which the organizing campaigns of the C.I.O. raised. But the source of the Administration's greatest worry was the apparent failure of its policy of increasing purchasing power, through the spread of collective bargaining and social legislation, to solve the problem of employment and, hence, of relief and public expenditures. It was out of the recognition of this failure that the recent efforts of the Department of Justice to apply the anti-trust law to the policies and practices of unions may be said to have come.

These latest moves in the relation of the government to unions may be regarded as the turning point in our national labor policy. It is fair to say that they must have come as a distinct surprise to most observers of the American labor situation, as, of course, they did to the unions themselves. For, only five years after the passage of the Wagner Act, whose foremost function it is to universalize and strengthen organized labor, the Administration responsible for the Act has discovered for itself that there need to be practical limits to union power and that a good deal of union labor policy is neither sound nor beneficial. Accordingly, the anti-trust division of the United States Department of Justice, while professing sympathy with the aims and aspirations of organized labor, began to clip the wings of particular unions and to stop them from doing all the things which had been common practice with them throughout their history.

It has often been assumed in the consideration of union policy that the practices which the government now condemns—

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unreasonable restraints designed to (a) prevent the use of cheaper material, improved equipment, or more efficient methods, (b) compel the hiring of useless and unnecessary labor, (c) enforce illegally fixed prices, and (d) destroy an established and legitimate system of collective bargaining — are peculiar to a few organizations in the building and allied trades and more generally to craft unions. But restrictions of output, opposition to the introduction of new materials and methods, wage- and price-fixing, and boycotts of materials produced under non-union conditions or under the jurisdiction of rival unions are practices more or less common to old and established unions, or, in other words, unions powerful enough to enforce them. They are an almost invariable manifestation of the monopolistic tendencies inherent in organized labor generally. And it is these tendencies that account for the joint price-fixing and restrictive policies of unions and employers' associations in those countries in which trade unionism exists in an advanced stage and is accepted by industry.

Both in its economic consequences and its effects on the organizations of labor, our labor policy has already disappointed some of the most powerful of its supporters. In the building industry the government obviously holds union practices and existing collusive arrangements between unions and employers responsible for the failure of this key industry to record the anticipated expansion in business and employment. Toward railroad labor the government has pursued a different and more benevolent policy. But, considering the condition in which the rail transportation industry of the country now finds itself, it is by no means clear that the railroad labor situation does not merit as much understanding and discussion as is now accorded to building labor. In the so-called service industries and occupations, in parts of which the expansion of organized labor is a recent phenomenon closely related to the development of our national labor policy, there is abundant evidence of the degree to which the policies of even young unions may act to limit the opportunities for employment. Even in the great basic industries of metals and metal products the demands made by unions and the issues which have become

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periodically the subject of negotiations and bargaining suggest the existence of similar tendencies. But the capacity of several of these industries to absorb added costs is still so considerable that the long-run effects of labor policy are obscured by immediate and, perhaps, temporary conditions.

The growth of restrictive and monopolistic practices in labor relations has created the dilemma in public policy with which the government is now wrestling. Its policy toward business is to promote competition, low and flexible prices, the abundant and continuous output of goods and services. Its policy toward labor is to raise wages and prices, encourage the maintenance of wage levels in periods of bad as well as good business, create strong organizations of labor with the power to adopt practices such as the Department of Justice is now attempting to exorcise in the building industry. The two policies are incompatible in the long run. In time the government will either regulate union policy, as it has now begun to do in isolated instances, or remove some of the special favors which it now confers upon organized labor and which have contributed so heavily to its advance since 1933.

Organized labor is no doubt aware of this dilemma and the changes in public policy that its existence forebodes. For the present, most unions will not protest too much for they believe that, on balance, they have gained more in membership and prestige than they have lost in control over their own affairs and their economic policy. But the experiment in labor policy that is the source of these trends and problems is still young. For all practical purposes it began only in 1937 with the decisions of the United States Supreme Court that upheld the constitutionality of the Wagner Act and paved the way for the policies since applied by the National Labor Relations Board. As it grows older and its effects are more clearly and generally seen, we may expect the change in public policy, which is already noticeable, to be accelerated and labor movements increasingly to question the wisdom of wholehearted allegiance to a policy that threatens so drastic a revision of their traditional rights and practices.

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AUTONOMOUS PUBLIC ENTERPRISE—THE GERMAN RAILWAYS III *

Traffic, Rates, and Transport Coördination

THE ideal of independence in the conduct of public undertakings must make terms with the need for coördination. More is at stake than managerial efficiency which is so markedly aided by a due combination of flexibility and stability. Arrangements that are too self-contained may block a balanced treatment of conflicting interests or permit the use for narrow ends of the earnings of a strategic resource which should be widely shared. In the field of transport, especially, there is need for a comprehensive view, if only to avoid a premature stifling of competition among substitute forms. A possible risk of public ownership of railroads is that the state will protect its investment by an unduly conservative attitude toward newer means of transport. But this risk is not peculiar to public ownership; it may exist under governmental regulation of private railway systems. Experience has shown the protective tendencies of ostensibly policing agencies and their disposition to be colored by the needs of the particular economic interest to which they are assigned. Even when their jurisdiction is extended, their original preoccupation may persist. Nor is the risk of a defensive narrowing of attitude in the treatment of publicly owned railroads confined to autonomous forms of organization. On the contrary, a government which manages them in a directly bureaucratic manner may fall even more readily into a jealous policy. Under favorable conditions, a well-considered devolution of railway management may aid in realizing a comprehensive handling of transportation. Such a concert is the ultimate test of the soundness of autonomous forms.

* The first installment, dealing with the organization, and the second installment, dealing with the financial structure of the railways in successive periods, appeared in the December 1939 and March 1940 issues of the Quarterly.—Ed.

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The exigency of the mood and method of National Socialism clouds the lessons of the partially autonomous management characteristic of the German railways. The hazards have been those of subordination rather than of independence. But the relationships that exist among the several forms of transport are hardly less interesting for this reason. The question of their interaction may best be approached by examining the trends of railway rates and traffic, for which a background has been provided in the discussion of the financial structure of the Reichsbahn.

a. *Traffic and Rates.* The increase in the volume of movement on the railroads has not brought a corresponding increase in revenue. This has been true in both passenger and freight traffic. The causes have been partly technological, having to do with the appearance of substitute forms of transportation. Partly they have been matters of deliberate social policy. In this double play, passenger business and freight business differ sufficiently to warrant their separate consideration. The relative importance of the two is briefly indicated in the fact that in 1938 the total income from passenger traffic was 1,432,321,370 RM, whereas freight brought in a total of 3,355,536,254 RM.[159]

(1) *Freight traffic and freight rates.* The volume of freight reached a peak in 1929. It was not until 1937 that the summit was again approached. Expressing the matter by indices, taking 1928 as 100, the total revenue freight carried was 100.9 and income therefrom 106.5 in 1929. The low points were

[159] These figures are taken from the Operating Account of the year ended December 31, 1939. This aspect of the German railways is illuminated by the following comparison presented by Dr. Ludwig Homberger in *Wirtschaftsführung und Finanzwesen bei amerikanischen Eisenbahnwesen* (Berlin, 1929), p. 8:

	Reichsbahn	American Railways	% of 1:2
Passengers carried in 1927 (in millions)	1,909	830	230
Revenue from passenger and baggage traffic per passenger-km in Rpf.	3.03*	7.55	40
Goods of all kinds carried in 1927 (in millions)	489	2,398	20.4
Revenue from goods traffic per ton-km in Rpf.	4.44*	3.1	143

* Without transport tax.

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reached in 1932, with total freight carried at 56, and revenue at 52.9. It will be observed that the gap between the two was widening. In 1925, when the total freight carried was 86.3, revenues were at 87.7. In 1934, when the volume had climbed to 73.2, revenues from freight were at 65.5.[160] The same tendencies for the period 1932 to 1937 may be summarized by saying that the quantities carried increased by 85.4 per cent;[161] the earnings from freight (roughly two thirds of all earnings), 70 per cent.[162]

In the economic recovery since 1932, transportation has not kept pace with production. Thus there was an increase of 80 per cent during that five-year period in all forms of transport — rail, road, canal, river — but production had doubled. One explanation was said to be localization of industry.[163] Nevertheless pressure on the transportation network is evidently severe and the condition has undoubtedly been aggravated by the postponement of railway needs.

The tendency of income from freight to lag behind the volume reflects in part the social policies which have been injected into the rate structure. The philosophy and the method of National Socialism have intensified the tendency toward the use of special rates, although the practice was far from an innovation. Before 1914, about 60 per cent of all goods traffic in Germany moved under commodity railway tariffs (*Ausnahmetarife*),[164] whereas in 1937, 70.1 per cent of the total was so handled.[165] The usage, now accelerated, is superimposed

[160] Prang says traffic in ton-kilometers increased from 44.4 billion to 79.5 billion, a 79.1 per cent increase. "Gegenwartsfragen der Finanzpolitik der Deutschen Reichsbahn", *Die Reichsbahn*, April 6, 1938, p. 353.

[161] *Die Reichsbahn*, May 11, 1938, p. 490. An article, "5 Jahre Aufbauarbeit der Deutschen Reichsbahn, 1932-1937", *Die Reichsbahn*, March 30, 1938, p. 308, states: "Hauled tons increased 78 per cent. Income per ton in 1937 was 5 per cent less than in 1932."

[162] *Konjunkturschwankungen im Reichsbahnverkehr, Sonderheft Nr. 38 des Instituts für Konjunkturforschung* (Berlin, 1936), p. 14.

[163] *Supplement to the Weekly Report of the German Institute for Business Research* (*Institut für Konjunkturforschung*), September 22, 1938, p. 2.

[164] Kurt Wiedenfeld, "Monopoltendenz und Frachtengestaltung im Eisenbahnwesen", *Archiv für Eisenbahnwesen*, March-April 1936, p. 276.

[165] E. Ziche, "Die Leistungen der Deutschen Reichsbahn nach dem Geschäftsbericht 1937", *Archiv für Eisenbahnwesen*, July-August 1938, p. 878.

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upon a new rate structure introduced after unification. A word regarding its history is appropriate.

When the railroads were in the hands of the several states, freight rates classified goods according to value and did not vary the kilometer charge with distance.[166] The contrasting tapering scheme was used only in the application of exceptional tariffs. This condition was encouraged by the decentralized ownership of the railroads by separate states. In 1877, it is true, a unified rate scale for all German state and private railroads was introduced and in 1890 normal rates were completely coördinated.[167] Exceptional rates might still be made by the individual railroads.[168] Meanwhile the adjustment of through rates under the normal tariffs was simpler when the charge per unit of distance did not decrease with distance.

A fundamental change took effect on December 1, 1920, when the principle of tapering rates in accordance with distance was generally applied. The unification of the network facilitated a development which altered conditions made imperative. The territorial adjustments that followed the peace

[166] Eberhard Greiner, *Die Deutsche Reichsbahn seit ihrem Bestehen, insbesondere deren gesetzliche Grundlagen und Organisation, Finanzwesen, Tarifwesen und Rationalisierung* (Dissertation, Würzburg, 1931), pp. 49-54.

[167] Wiedenfeld, *loc. cit.*, p. 252. Despite the supposed unification, many variations continued to exist in passenger rates, particularly in regard to classes. *Cf.* Kittel, "Eisenbahn und Staat in Deutschland", *Archiv für Eisenbahnwesen*, July-August 1936, p. 723, n. 2.

[168] During this stage, the interplay of state purposes and national influence in the handling of exceptional tariffs was neatly illustrated by the special rate for grains introduced by the Prussian-Hessian railway system in 1891. The arrangement was originally devised to offset a poor harvest in Western and Central Germany; it brought the agricultural East nearer to the industrialized West. At the time, even Bavaria benefited, for it could send surplus oats to Holstein. But when the supply of wheat became plentiful, with a falling price, a growing clamor was raised. The Prussian railways were blamed for admitting a flood of East Prussian grain. Bavaria found leverage at hand. A German-Russian commercial treaty was then being negotiated. Bavaria made its consent contingent on the abolition of the special Prussian railway rate on grain. Prussia, under pressure from the national government, abolished the differential in 1894. Another phase of the bargain illustrated the interlocking of railway rates and import duties. As a recompense for the loss of markets in Western Germany, the farmers of East Prussia were granted an export premium in the form of import certificates equal to the duties levied. Wiedenfeld, *loc. cit.*, pp. 250-1.

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had wrenched some areas in Germany out of their accustomed local contexts; more distant shipments were necessary. Wages were going up in centers of production which had previously been able to offset high transportation charges by low labor costs. The concentration of certain natural resources — coal, for example, in the Ruhr and in Upper Silesia—emphasized the desirability of rates which would facilitate long-distance haulage. All of these factors gave point to the shift to the new rate base.[169] An additional difficulty with the old rate structure, and a further reason for revision, lay in the fact that certain commodity rates were, in effect, discriminations in favor of German shippers and inconsistent with Article 325 of the Treaty of Versailles.[170]

The trend in freight rates between 1919 and 1933 was primarily marked by adjustments to price fluctuations. When the mark was put on a gold basis in November 1923, freight tariffs were double those in force before the War. During 1924 three successive reductions were made which brought rates down to a point 48 per cent above the pre-war level.[171] Under the National Socialist régime, however, a policy of drastic freight reduction was adopted to stimulate industry by counteracting increasing production costs and to meet the competition of road and water facilities. By 1938 nearly three fourths of all freight was being carried at special rates and it was deemed necessary to raise most of the "normal" tariffs by 5 per cent. The general downward trend is indicated by the fact that in 1938 freight as a whole was moving at rates 13 per cent lower than in 1928.[172] The picture is even more

[169] Greiner, *op. cit.*, pp. 49-58. *Cf.* also Kurt Giese, *Hauptfragen der Reichsbahnpolitik* (Berlin, 1928), pp. 43 *et seq.* and 60 *et seq.*

[170] Article 325 reads: "The seaports of the Allied and Associated Powers are entitled to all favors and to all reduced tariffs granted on German railways or navigable waterways for the benefit of German ports or of any port of another Power."

[171] Greiner, *op. cit.*, p. 63. The ratio of freight rates in 1913 and 1936 was 1:1.23. Julius Dorpmüller, "Die Deutsche Reichseisenbahn 1918-1936", *Deutsches Institut für Bankwissenschaft und Bankwesen, Probleme des Deutschen Wirtschaftslebens*, p. 23.

[172] *Supplement to the Weekly Report of the German Institute for Business Research*, September 22, 1938, p. 4.

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striking when the average receipt per ton-kilometer for 1928 and 1938 is compared: it was 4.48 Rpf. in 1928 and 3.56 Rfg. in 1938, or in other words, there was a reduction of about 20 per cent.

The subordination of the freight rate structure to considerations of economy, defense and politics may be illustrated by noting some of the special adjustments.[173] Material for the *Autobahnen* was carried at cost, this accommodation (rendered for an ostensible subsidiary which was in reality a rival) amounting to a probable total sacrifice of 100 million RM at the end of 1937.[174] In addition, some arrangements were even more directly political. Building materials for the party grounds at Nuremberg were forwarded at a reduced rate of 30 per cent. And goods destined for winter help (*Winterhilfe*) were shipped free of charge, entailing a freight revenue loss to the Reichsbahn of 18 million RM.[175]

From the standpoint of the railroads themselves the reaction of the special rates seems likely to be increasingly disadvantageous. With mounting pressure on the transportation facilities (aggravated by the territory acquired in 1938), special rates entail a real sacrifice. But the long-run effect must be looked at in terms of the deliberate encouragement of the diversion of traffic to other forms of transportation, notably waterways.[176]

(2) *Passenger traffic and passenger rates.* Before the analysis passes to the coördination of the several means of transportation, certain aspects of passenger business claim attention. The high point was in 1928, in regard to both number of

[173] The rates effective in 1937 reflected the four-year plan. Thus special rates were established for raw materials used in the manufacture of artificial wool and cotton yarns. Special rates were also allowed for German raw materials where such rates stimulated their use and saved foreign exchange; examples were ores, slags, and synthetic Diesel fuel. Low rates on potash and calcium were designed to help agriculture. On the other hand, by way of aiding exports, iron and steel goods, paper, glass supplies, and chemicals could be hauled to seaports at special rates. *Archiv für Eisenbahnwesen*, July-August 1938, p. 877.

[174] "5 Jahre Aufbauarbeit der Deutschen Reichsbahn, 1932-1937", p. 313.

[175] *Die Reichsbahn*, May 11, 1938, p. 493.

[176] *Cf. infra*, p. 184.

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persons transported and revenue from this source. The low was in 1933.[177] Since that time the agitated pace of German life has been reflected in travel by rail as well as road. In 1937 passenger traffic had increased 62.7 per cent over 1932. Earnings from this source, however, had risen only 31.7 per cent.[178] In 1929 receipts per passenger-kilometer averaged 3.02 Rpf., but in 1937 only 2.37 Rpf.—a decline of 21.5 per cent.[179]

The relative dropping away of passenger business has resulted in part from automobile competition.[180] But in considerable measure, also, account must be taken of the fact that passenger business has been rendered less remunerative by the policies regarding rates. In 1937, 71.6 per cent of all passengers were carried at reduced rates,[181] compared with 58.16 per cent five years before.[182]

[177] Using 1928 as 100, the index of persons transported fell to a low of 61.7 in 1933 and was only 67.7 in 1934. The income from passenger traffic, taking 1928 as 100, was 58.6 in 1933, and 63.5 in 1934. The discrepancy reflects the lower revenue per passenger-kilometer, which (still taking 1928 as 100) was 63.2 in 1933 and only 73.1 in 1934. *Konjunkturschwankungen im Reichsbahnverkehr.*

[178] Prang, *loc. cit.*

[179] *Archiv für Eisenbahnwesen*, July-August 1938, p. 882. The transport tax is not included in these figures.

[180] During the decade from 1921 to 1931, private motor cars in the Reich increased 8.7 times; busses, 7.8 times; and motorcycles, 28.7 times. *Konjunkturschwankungen im Reichsbahnverkehr*, p. 36. Investigations indicated that each private automobile means an annual loss to the Reichsbahn of 10,000 passenger kilometers, entailing an income loss of 410 RM per passenger car. The loss per bus was reckoned at 5,600 RM per bus. (A calculation of this matter was offered in a publication, *Reichsbahn und Kraftwagenverkehr*, issued by the railway management in 1930.) The total loss from motor vehicles was estimated to have been 36,600,000 RM in 1926 over what it had been in the previous year; in 1934 it had risen to 264,200,000 RM. *Ibid.*

[181] *Archiv für Eisenbahnwesen*, July-August 1938, p. 882.

[182] Prang, *loc. cit.* Some of the adjustments were for particular classes of riders: homeworkers, school children, members of the youth movement, sport and other societies, circuses, farmers' helpers to and from job location, etc. Some of the reductions were in connection with particular festivities; for example, in 1938, the exhibition of the national nutrition office in Munich for which 642 special trains were run; the festival of the German singing societies in Berlin for which there were 277 special trains; special trains for the national party festival at Nuremberg in September, and for Harvest Day at

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It would be a grave error, of course, to consider this sort of reduction as novel and a mistake also to regard it as necessarily unremunerative. All railway systems offer reduced fares. National railway networks, like the Swiss, have participated notably in cultural movements. The German system was used to reductions for social purposes. It is not surprising that the showmanship of National Socialism should have asked for even more drastic and varied cutting. Much of it has coincided with defensive reduction of rates in which alert railroad managements are likely to engage in the face of alternate forces of transportation. It is timely to pass to the question of competition and coördination.

b. *Coördination.* The rise of substitute modes of rapid transportation has completely altered the position of the German railways. Their monopoly, which was *de facto*, if not *de jure*, is gone. This, in itself, has been an additional reason for giving them flexibility if they were to survive. But the situation has also been a reason, in Germany as throughout the world, for giving heed to the problem of coördination of all means of transport.[183]

Germany under the Weimar Constitution had at hand instruments of adjustment. Rail transport had been substantially unified; the Reichsbahn was incidentally a holding company which acted as a hub of widely ramified, related industries. In the Reichspost, Germany possessed an important adjunct of road transport, increasingly active in the motorbus field.[184] An agreement of July 1929 provided that

Bückeburg. The burden to the railroad was shown by the fact that the 71.6 per cent who traveled at reduced rates contributed only 58.50 per cent of the total revenues from passengers and baggage, whereas the remaining 28.36 per cent earned 41.50 per cent of that total for the railroads. *Ibid.*

[183] For a survey of transport coördination in various countries, *cf.*, for instance, W. Rodney Long, *Transport Control Abroad*, U. S. Department of Commerce, Trade Promotion Series No. 196 (Government Printing Office, Washington, 1939); *Coordination of Transport: Results of an Enquiry Addressed to Governments*, League of Nations Publications. Transit. 1938. VIII. 6. *Cf.* also *Public Aids to Transportation*, 4 vols., Government Printing Office (Washington, 1940).

[184] *Cf. Eisenbahn und Kraftwagen: Tatsachen und Gedanken zur Neugestaltung des deutschen Verkehrswesens. Denkschrift des Studienausschusses*

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the Reichspost should confine its motor carriage to passengers,[185] while the Reichsbahn, so far as it maintained trucks, was to be contented with the transport of freight.[186] The German government, furthermore, was involved as an investor in water and air transport. But the general articulation was hardly perfected and the slackening of trade after 1929 sharpened the competition among the alternative forms of transport.

The elaborately coördinative architecture of National Socialism has been extended to transportation. In reconciling the several means of transport, however, the formal organs of concert have been less important thus far than the fact that in the burst of national preparation Germany overtook her transportation facilities.[187] With the railroad freight facilities taxed to the limit, it has been easy to encourage waterways and to maintain that highways hold no menace for the railroads. A unified view of transport is wholesome, of course. But the practice of coördinated transport in Germany does not mean that the economic position of the German railroads has not been seriously jeopardized. Ironically enough, railroad credit has been used to develop a competitor. The immediate result

"Eisenbahn und Kraftwagen" beim Deutschen Industrie- und Handelstag März 1930 (Berlin, 1930), p. 33. From June 1, 1932 the railways and the post office were under the supervision of a common ministry, headed by Freiherr Eltz-Rübenach. This connection was severed with his resignation in February 1937.

[185] Traditionally the German railways were required to transport the mails free of charge. Sir William Acworth and his associate, in their memorandum of March 26, 1924, commented unfavorably on this arrangement, observing that in Great Britain the railways were receiving four million pounds sterling from the government for this service. *Report of the Expert Committee Appointed by the Reparation Commission*, Annex No. 3. The law of August 30, 1924 ordained compensation. *Cf.* Willy Muser, "Die Rationalisierungsbestrebungen der Deutschen Reichspost", *Hamburger Wirtschafts- und Sozialwissenschaftliche Schriften*, Heft 15 (Rostock, 1930), p. 56. The payment by the post office to the railway system averaged 100 million RM annually.

[186] But the Reichsbahn maintains some motorbus lines: 87 in the Old Reich, 139 in the Sudeten district, and 89 in the Ostmark (Austria), the latter under the name "Köb" (*Kraftwagenbetrieb der österreichischen Bundesbahnen*). Adolf Sarter and Theodor Kittel, *Was jeder von der Deutschen Reichsbahn wissen muss*, p. 41.

[187] A shortage was marked as early as 1937. *Supplement to the Weekly Report of the German Institute for Business Research*, September 22, 1938.

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is sound; its long-run implications are truly significant; but the intermediate future may prove troublesome.

(1) *Ramifications of the Reichsbahn.* In surveying the means of coördination, it is necessary, first, to note the extent to which the Reichsbahn, acting as a holding company or exercising influence as an investor, has in itself served as a mechanism of concert. Ramifications of this sort have naturally been confined in the main to activities incidental or complementary to transport by rail. Some of the investments, however, have extended beyond railroading and have anticipated the recent financial relations of the Reichsbahn to the express highways.

The involvements organically related to railway service need be mentioned only briefly. Their range and variety would make it difficult as well as tedious to describe them exhaustively. In discussing the financing of the Reichsbahn, mention was made of the *Deutsche Verkehrs-Kredit-Bank AG*, originally formed largely to finance deferred freight payments. Note has been taken in the same connection of the formation, through this bank, of another subsidiary, the *Reichsbahn-Beschaffungs-GmbH*, which as a supply company helped to handle railway purchasing in behalf of the work program.

Organic from the standpoint of railway operations have been affiliates such as *Mitropa* (*Mitteleuropäische Schlafwagen- und Speisewagen-AG*), *MER* (*Mitteleuropäische Reisebüro GmbH*), and the *Reichsbahnzentrale für den Deutschen Reiseverkehr GmbH*.[188] *Mitropa* has been organized as a stock company for the purpose of providing sleeping cars and dining cars. The Reichsbahn owns almost all shares. In the case of the second of the undertakings mentioned, the Mid-European Travel Bureau, the Reichsbahn owns more than one third of the shares, the other outstanding owners being steamship companies and the Hungarian railways. The *Reichsbahnzentrale*, concerned with publicity, was organized as a limited liability

[188] A. F. Napp-Zinn, "Die Deutsche Reichsbahn-Gesellschaft", *Schriften des Vereins für Sozialpolitik*, vol. 176, part 2, pp. 368-9, 371-2, 377. *Cf.* also Sarter and Kittel, *Was jeder von der Deutschen Reichsbahn wissen muss*, pp. 34-5.

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company wholly owned by the Reichsbahn. The *Deutsche Bahnspedition*, a forwarding company, also wholly owned by the Reichsbahn, is another ramification. Related types of adjuncts are the numerous leased facilities connected physically and in some cases also functionally with the railway services.[189]

Somewhat different are affiliations with power companies which supply current for the railroads. The Reichsbahn owns stock in two such companies—*Mittlere Isar-AG* and *Walchenseewerk-AG*—in both of which Bavaria also holds shares.[190]

The element of coördination is more apparent when an organization like the Reichsbahn participates in other transportation concerns, especially when other types of transport are involved. Sometimes stock ownership in this connection has been a phase of railway unification. Thus the Reichsbahn acquired four fifths of the capital stock of the *Lübeck-Büchener Eisenbahn-Gesellschaft*, the largest of the privately organized railways in Germany, of which it became the sole owner in 1938. Sometimes stock ownership has extended into cognate but somewhat competitive fields. Thus the Reichsbahn had an interest in the *Rhein- und See-Schiffahrts-AG*, in which Prussia held a majority of the stock.[191] And for a time it was likewise involved as a stockholder in a number of motor com-

[189] Julius Dorpmüller, in "Die Deutsche Reichseisenbahn 1918-1936", p. 58, lists 3,265 restaurants, 875 bookstores, and 1,346 shops.

[190] Napp-Zinn, *loc. cit.*, p. 372. In order to be assured of continual supply of current the Reichsbahn has also granted large loans to these electricity works. At the end of 1938, 3,236 km were electrified out of a total of 69,932 (which included Austria and the Sudeten district but not Memel). Sarter and Kittel, *op. cit.*, p. 69. Outstanding is the electrification of the Berlin metropolitan, circular and suburban railways. *Cf.* Remy, *Die Elektrisierung der Berliner Stadt-, Ring- und Vorortbahnen, Archiv für Eisenbahnwesen*, 1931—Beiheft.

[191] The comment in the text, naturally, is confined to undertakings related to water-borne commerce in which the Reichsbahn, as distinguished from the Reich, was interested. Under the latter head fall various mixed undertakings for canalization purposes: the *Neckar AG*, the *Rhine-Main-Danube AG*, and the *Teltow-Kanal AG*. The Reich owned shares in these corporations to the amount of 2,560,000, 918,000, and 200,000 RM respectively. Martin Sogemeier, *Die öffentliche Hand in der privaten Wirtschaft* (Berlin, 1926), p. 97; Ernst Hansen, *Die Beteiligungen des Reiches an industriellen Unternehmungen* (Leipzig, 1931), pp. 56-7.

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panies organized by combinations of public bodies.[192] This tendency, however, was arrested about 1929 by the withdrawal of the Reichsbahn from the domain of passenger transport by road, in which it deferred to the post office.

The Reichsbahn itself operates trucks—2,500 at the end of 1938. Relatively speaking, its direct participation in road transport is hardly important. In 1937, for example, only 4.7 per cent of the freight moved by road was transported by Reichsbahn facilities, compared with 58.6 per cent handled by the commercial motor industry and 35.1 per cent by private companies for their own use.[193]

(2) *Road-rail relationships.* The extent to which the traffic of the Reichsbahn, like that of railways systems generally, has lost to motor transport has already been noted. The fact that in 1937 the total long-distance freight carried by motor vehicles amounted in weight to only 3.1 per cent of that transported by the Reichsbahn[194] was no measure of relative importance, let alone of tendencies. For it has been seen that the railroads were losing remunerative forms of freight.

(a) *Construction of highways.* The motorization of transport has naturally been pushed in the Third Reich. This was hardly more than timely. The motives have had to do partly with transportation itself. Partly they have been the desire

[192] Napp-Zinn, *loc. cit.*, p. 383, shows the following percentages of stock ownership in these companies:

Capital Stock	*Kraftverkehr Freistaat Sachsen AG 3,500,000 RM*	*Rheinische Verkehrs-gesellschaft AG 1,750,000 RM*	*Kraftverkehrs-gesellschaft "Hessen" m.b.H. 1,441,000 RM*	*Kraftverkehrs-gesellschaft m.b.H. Ostpreussen 713,430 RM*
Reichsbahn	14.3	26	45.5	47.3
Reich	——	7.1	31.9	44.4
Länder, Provinces	46.3	14.3	8.5	2.5
Districts, Cities	35.7	45.4	14.1	5.2
Others	3.7	7.2	——	0.6

[193] A. von Neuhoff- von der Ley, "Der Güterfernverkehr mit Kraftfahrzeugen im Jahre 1937", *Archiv für Eisenbahnwesen*, January-February 1939, p. 128. The small amount of 1.6 per cent, not mentioned in the text, was carried by long-distance moving vans.

[194] *Ibid.*

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to provide employment.[195] Partly the purposes have been defensive.[196] These have been substantial and no doubt sufficient reasons. But in a degree, at least, the new express highways have been made symbolic.

In 1933 the organization called *Reichsautobahnen* was launched in the form of a corporation. The statute which authorized it has been repeatedly amended and supplemented.[197] The purpose was the construction and maintenance of a net of express highways. From the standpoint of the present inquiry, the striking feature was the fact that it was founded as an ostensible subsidiary of the Reichsbahn. The latter took up non-interest-bearing founders' capital shares to the amount of 50 million RM. Through the treasurer's office and with the aid of the *Deutsche Verkehrs-Kreditbank* and a further new supply subsidiary, the *Reichsautobahnen Bedarfs-GmbH*, it undertook to provide financial service in behalf of the new organization. In essence, the credit of the Reichsbahn was utilized in the financing of an undertaking which is intended to be self-liquidating largely on the basis of taxation of motor vehicles. In addition, the railroads carried the construction materials at cost.[198]

The degree to which the Reichsbahn has helped in supplying

[195] It was reported early in 1939 that 400,000 workers were employed directly or indirectly on road construction, 100,000 being engaged on the Reich motor highways, another 100,000 on other types of roads, and 200,000 in tributary industries. From a manuscript report by Dr. Otto Riesmann, furnished by the New York office of the Reichsbahn.

[196] Highways, it has been urged, can be repaired more quickly after aerial bombing than railways. The building of the West Wall has shown the unique elasticity of motor transport in times of pressure.

[197] June 27, 1933 (*RGBl* II, p. 509); Aug. 7, 1933 (*RGBl* II, p. 521); Aug. 25, 1933 (*RMBl* p. 438); Nov. 30, 1933 (*RGBl* I, p. 1057); Dec. 18, 1933 (*RGBl* I, p. 1081); Mar. 23, 1934 (*RGBl* I, p. 232); Jan. 23, 1935 (*RGBl* II, p. 37); Mar. 8, 1935 (*RGBl* II, p. 177); Mar. 14, 1935 (*RGBl* II, p. 421); May 14, 1936 (*RGBl* I, p. 440); June 1, 1938 (*RGBl* II, p. 207); June 1, 1938 (*RGBl* II, p. 208); July 25, 1938 (*RGBl* I, p. 951).

[198] Wilhelm Kleinmann, "Der Wettbewerb bei den einzelnen Verkehrsmitteln in Deutschland", *Jahrbuch der nationalsozialistischen Wirtschaft*, p. 448; "5 Jahre Aufbauarbeit der Deutschen Reichsbahn, 1932-1937", p. 313.

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the sinews of the new undertaking is shown by the following statement of assets and liabilities:[199]

STATEMENT OF ASSETS AND LIABILITIES OF THE REICHSAUTOBAHNEN FOR THE BUSINESS YEAR 1938—IN REICHSMARKS (millions omitted)

ASSETS		LIABILITIES		
PLANTS	3,076.8	OBLIGATIONS TOWARD REICHSBAHN		50.0
INVENTORIES	2.9	RESERVES		371.0
CURRENT ASSETS	139.2	DEBTS:		
UNADJUSTED CLAIMS	38.7	Acceptances	450.0	
		Reichsbahn Loan	400.0	
		Loan by the National Institute for Placement and Work Relief	625.0	
		National Insurance Institute	100.0	
		National Group "Insurance"	237.2	
		Loan by the Finance Minister	902.0	
		Other Credits	33.6	2,747.8
		OTHER OBLIGATIONS:		
		Real Estate Purchases	41.5	
		Purchases	7.3	48.8
		UNADJUSTED CLAIMS		39.9
		BALANCE CARRIED FORWARD		0.1
	3,257.6			3,257.6

The statement of assets invokes the wholesome principle of setting down a value for the physical thing that has been constructed. But, so far as concerns the retirement of the debt incurred for construction, there are no earnings in the ordinary sense.[200] Instead, there is the application of taxes on motor vehicles and their use.[201] In addition to this source of income,

[199] Abstract from the annual report of the *Unternehmen Reichsautobahnen* for 1938, *Die Reichsbahn*, June 28, 1939.

[200] In 1938, operating earnings, derived from the operation of filling stations through a subsidiary, the *Reichsautobahn-Kraftstoff-GmbH*, created in 1936, amounted to only 400,000 RM. They were even insufficient to cover the operating expenses of 7.5 million RM.

[201] A law of July 2, 1936 (*RGBl* I, p. 531), drastically revising the transport tax law of a decade before, introduced a tax on motor common carriers and also on the motor transport of freight by individual concerns in their behalf when for greater distance than 50 kilometers; it provided incidentally for levies on the motorized transport of passengers by the Reichspost and the

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increased duties on motor fuels and the proceeds from a tax on mineral oil,[202] totaling together 244.9 million RM, were assigned to the *Reichsautobahnen* to take care of interest service and amortization and to offset the operating loss.

Administratively, the relation of the railway system to the *Reichsautobahnen* has been advisory and facilitative, rather than directive. A statute of June 1, 1938,[203] taking account of the changes in railway organization made in the preceding year, effected what were portrayed as complementary alterations in the *Reichsautobahnen.*[204] The word *"Gesellschaft"* was dropped from the title. Its formal status as a branch undertaking of the Reichsbahn continued until the enactment of the railway law of July 4, 1939. The new act emphasized the reality of administrative control by the general government. The supervision and management of the *Reichsautobahnen* are in the hands of the inspector general of highways.[205] The officials, including the executive personnel in charge of construction, are officers of the Reich. The by-laws must be approved by the finance minister. The Reichsbahn gives incidental technical assistance in certain financial matters and in bridge construction. Audit is conducted in part through the examining services of the Reichsbahn but the organ of general audit, the *Rechnungshof*, is also involved.[206] The min-

Reichsbahn. Such taxation is based upon the transport charge, being 9 per cent in the case of freight, and 10-16 per cent for passenger business. *Cf.* Kleinmann, *loc. cit.*, pp. 446-8.

Besides the transport tax, of course, there is taxation on all motor vehicles on the basis of cylinder capacity or weight under the law of March 23, 1935 (*RGBl* I, p. 407).

202 Ordinance of November 24, 1936 (*RGBl* I, p. 960).

203 *RGBl* II, p. 207.

204 Th. Kittel, "Die Neugliederung der Reichsautobahnen in die Reichsverwaltung", *Die Reichsbahn*, June 22, 1938, pp. 625-6.

205 This official (*Generalinspektor für das deutsche Strassenbahnwesen*) was provided for in a decree of November 30, 1933 (*RGBl* I, p. 1057). The inspector general, who for some years has been Dr. Ing. Fritz Todt, is a member of the advisory council of the Reichsbahn. Under the law of March 26, 1934 (*RGBl* I, p. 243) the highways were classified in four categories: *Reichsautobahnen;* national highways; highways of the first order; and highways of the second order. The inspector general was charged with the allocation.

206 Auditing procedure is subject to the ordinance of March 8, 1935 (*RGBl* II, p. 177).

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ister of transport, who under the laws of 1937 and 1939 is also manager of the railways, is president of an advisory council of seven members attached to the *Reichsautobahnen*. In this capacity he has a consultative voice, though the influence thus afforded is lessened by the fact that the advisory group of the *Reichsautobahnen* seems relatively unimportant.[207]

(b) *Coördination through regulation.* The balance of road and rail has been sought partly by the exercise of regulative and taxing powers. The veering course of practice and policy may be briefly sketched.[208] During the late twenties and early thirties a virtual rate war was waged by the railroads against the motor trucks. A phase of this was the offering of competitive commodity rates (*K Tarife—Kraftwagen-Ausnahmetarife*). In addition, arrangements were made with the forwarding companies in order to reduce the cost of cartage to and from depots; these were motivated by various inducements and required compliance with scales of charges fixed by the railway system. On March 30, 1936, the nature of road-rail competition was altered by the promulgation of the *Reichskraftwagentarif*, issued under the law of June 26, 1935,[209] and the decree of March 27, 1936.[210] Truck rates were assimilated to the railway tariff structure, using the same classification and levels. The railways were protected by forbidding trucks to carry goods covered by the three lowest of the seven rate classes. Few special commodity rates, moreover, were permitted in the case of truck transportation. But two years later the defense of the railways was relaxed. A decree of the minister of transport on February 2, 1938 opened the lower tariff classes to trucking and permitted the semi-official organization of motor carriers to utilize commodity rates in connection with long-distance haulage.

[207] *Cf. Reichsanzeiger* No. 137.

[208] The writers take pleasure in acknowledging the assistance of Dr. Ludwig Homberger whose analysis, calling attention to distinctive features of the attempt at coördination of transport in Germany, has been paraphrased at this point.

[209] *RGBl* I, p. 788.

[210] *RGBl* I, p. 320.

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Regulation of motor carriers is bulwarked by licensing and approval. Begun as an emergency measure in 1931,[211] the device has been extended since 1933.[212] An interesting feature has been the requirement that any proposed new passenger road service must be submitted to the Reichsbahn for comment. Long-distance freight transport for hire, when more than fifty kilometers, is subject to special permission and numerous requirements regarding the inspection of books and the like.

The regulation of motor freight rates, as has been remarked, is facilitated by an association of long-distance operators, which in the middle of 1936 comprised 9,230 carriers.[213] Here the Reichsbahn possesses a partial defensive veto, for the association and the railway management must agree on the motor freight rates; otherwise the minister fixes them.[214] On January 1, 1939 a new pooling plan was introduced for tramp motor vehicles. Operators in this field had been showing an inclination to accept only goods subject to the highest rates. A shortage of road transport for certain types of goods forced

[211] October 6, 1931 (*RGBl* I, pp. 537, 558).

[212] In connection with passenger transport by road, under the law of December 4, 1934 (*RGBl* I, p. 1217), supplemented by the executive ordinance of March 26, 1935 (*RGBl* I, p. 437) and amended by the law of December 6, 1937 (*RGBl* I, p. 1319); in connection with long-distance freight tariff by road, under the law of June 26, 1935 (*RGBl* I, p. 788), supplemented by the executive ordinance of March 27, 1936 (*RGBl* I, p. 320).

[213] In 1938, 69 distributing centers were operated by the *Reichs-Kraftwagen-Betriebsverband*. This association entered into a working agreement with the group "Forwarding and Storage" according to which the number of delivery agents was increased. Forwarding and collecting agents now number 1,000. *Halbjahrsberichte zur Wirtschaftslage, Schriften des Instituts für Konjunkturforschung*, 1939/40, Heft 1, May 26, 1939. In 1937 the *Wirtschaftsgesellschaft m.b.H.*, capitalized at 100,000 RM, was established for the purpose of maintaining highway freight depots with garage facilities and lodging accommodations for chauffeurs. *Cf.* Long, *Transport Control Abroad*, p. 145.

[214] Georg Körner, "Aufbau und Organisation des deutschen Verkehrswesens", *Jahrbuch der nationalsozialistischen Wirtschaft*, p. 426, and Part II, p. 599. The private railways, few in number, of 13,937 km length in 1936, usually narrow gauge and short, are hardly protected; but, although they suffer keenly at the hands of motor transport, special sources of demand—the needs of the potato crop, or conditions of ice in East Prussia, for example—help to keep them in existence.

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a solution.[215] Operators of tramp motor vehicles are now to be compensated according to ton-kilometer performance on a uniform scale. The *Reichs-Kraftwagen-Betriebsverband*, as the operator of the pool, is to carry the total risk. Obviously, an adjustment between the interests of the Reichsbahn and those of this association can be more easily effected than between the Reichsbahn and a multitude of small operators. The announced theory[216] below such regulations is that of "just competition" between the two forms of transportation.

The spirit of road-rail adjustments in Germany has been protective but it has seemed less tender of the railways than the analogous legislation in Great Britain.[217] In the latter country the road and rail traffic act of 1933 afforded biased relief to the railways from highway competition inasmuch as the railway companies received the right, with the approval of the Rates Tribunal, to make agreed charges for the carriage

[215] In March 1939, the demand in the tramp motor vehicle traffic exceeded the supply by 15 per cent. This shortage was manifest despite the fact that most motor vehicles, commandeered during the winter for the fortification of the West Wall, had been put back into circulation. Altogether, 15,200 motor trucks had been used for this purpose, and of those, 85 per cent belonged to the transport industry and 15 per cent to persons who used their trucks for and in connection with their trade and business. These figures are meaningful as they clearly indicate that in emergencies the first type can be drawn upon without violently disturbing the operation of individual firms or corporations. *Halbjahrsberichte zur Wirtschaftslage*, May 26, 1939.

[216] The act of March 26, 1935 began: "In order to secure a just [*gerecht*] competition between railways and motor vehicles . . . ."

[217] *Cf. Royal Commission on Transport, First Report: The Control of Traffic on Roads* (Cmd. 3365, 1929-1930), *Second Report: The Licensing and Regulation of Public Service Vehicles* (Cmd. 3416, 1929-1930), *Final Report: The Coordination and Development of Transport* (Cmd. 3751); *Report of the Conference on Rail and Road Transport* ("The Salter Conference") (Ministry of Transport, 55-170, 1932); the Road and Rail Traffic Act, 1933; the Goods Vehicles (License and Prohibitions) Regulations, 1936; the Road and Rail Traffic Act (Exemption) Regulations, 1936; the Motor Vehicles (Authorizations of Special Types) Regulations, 1936; the Motor Vehicles (Driving Licenses) Regulations, 1936; the Goods Vehicles (Keeping of Records) Regulations, 1935; the Road and Rail Traffic Act, 1933 (Appeal Tribunal) Rules, 1934; the Motor Vehicles (Construction and Use) Regulations, 1937; the Road Traffic Acts of 1934 and 1937; the Road Haulage Wages Bill, 1938; *Memorandum of the Railways*, November 23, 1938; and the *Report of the Advisory Council*, April 4, 1939.

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of merchandise. The comparison has far-reaching interest, since the railways in Great Britain are privately owned, and a theoretical objection to government ownership has been the risk that government's stake as proprietor would cause it to be unduly protective in its treatment of an obsolete facility. It has not been surprising that the British act of 1933 found considerable disfavor with operators by land and water and that the movement toward coördination seemed to lose headway. The moral may also be pointed by allusion to France where the principle of government operation of railways is ascendant. The program of transport coördination embodied in the decree-law of August 31, 1937 and its many amendments [218] permits rail trackage to be abandoned where haulage by truck is more economical. On the other hand, it should be added, railways are given preference in handling bulk transport. Short-haul trucking is subject to a quota system. Long-distance trucking is taxed at special rates but operators are exempt from the tax if they join organizations licensed to charge rates according to scales agreed upon with the National Railway Company. The superior transport council may eliminate long-haul highway trucking not regarded as necessary in view of available railway service. Much of this resembles the coördinative control used in Germany. But it is interesting that trucks operated by a person for and in connection with his business or trade are subject to less restrictions in Germany than in Great Britain and France. Various German interests, both commercial and agricultural, are engaging in such haulage on a scale that threatens to upset the balance of the "just competition" which is the proclaimed ideal of adjustment among the several means of transport.

(3) *Water-rail relationships.* A friendly critic of the Reichsbahn, writing in 1926, said: "There is one danger which menaces the healthy development of the Federal Rail-

[218] Dec. 31, 1937; Feb. 25, 1938; Apr. 7, 1938; June 17, 1938; Aug. 20 and 21, 1938; ten decrees issued on Oct. 12, 1938; Nov. 12, 1938; Jan. 12, 1939; and Sept. 19, 1939. Important decrees prior to 1937 bearing on the subject are those of Apr. 19, 1934; May 15, 1934; Sept. 21, 1934; Feb. 25, 1935; July 15, 1935; and Nov. 14, 1936.

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way, for during recent years there has been a lively agitation in economic and political circles in favor of developing the German navigation network." [219] He added: "Schemes for the construction of new artificial waterways are under discussion, which would not only absorb many hundred million marks, but are mainly intended to divert the goods traffic from the railways to waterways." [220] Enthusiasm for inland waterways obviously did not originate with National Socialism. But in the Third Reich it has been an active policy not only to foster the waterways but also to extend them. The shortage of freight facilities, apparent in 1937 and perhaps a phase of relative neglect of railway renewal and improvement, has been

[219] Alfred von der Leyden, "The German Federal Railway Company", *Annals of Collective Economy*, November-December 1926, vol. 2, p. 332. The critical attitude toward waterways is illustrated: "Reichsbahn und Wasserstrassen", *Denkschrift der Deutschen Reichsbahngesellschaft* (January 1927); E. Giese, *Eisenbahn- oder Wasserstrassenbeförderung?* (Berlin, 1927); E. von Beckerath, "Neudeutsche Kanalpolitik", *Strukturwandlungen der deutschen Volkswirtschaft*, 2 vols. (Berlin, 1928), pp. 199 *et seq.*; (mildly) F. Napp-Zinn, *Binnenschiffahrt und Eisenbahn* (*Kölner wirtschafts- und sozialwissenschaftliche Studien*, N.F. Heft 3). For a rebuttal of such criticism, *cf.* Kurt Wiedenfeld, "Transportwesen", *Grundriss der Sozialökonomik*, V. Abt., III. Teil (Tübingen, 1930). The military advantages of waterways are extolled: R. Hennig, *Grundzüge einer militärischen Verkehrspolitik* (Berlin, 1917); W. Butz, "Wehrwirtschaftliche Verkehrspolitik", *Der deutsche Volkswirt*, Jan. 15 and 22, 1937; K. W. Förster, *Verkehrswissenschaft und Krieg* (Hamburg, 1937); W. Mende, "Die Wehrwissenschaft und die deutschen Binnenwasserstrassen", *Der deutsche Volkswirt*, Nov. 25, 1938. Doubts on the advantages from the military side have been voiced recently: W. Teubert, "Verkehrsaufgaben im Sinne der neuen Wirtschaftsziele und der Raumordnung", *Der Vierjahrsplan*, July 1938. For a review of the whole literature, *cf.* Wilhelm Ludwig Schneider, "Wasserstrassenpolitik", *Schriften des Instituts für Konjunkturforschung*, 13th Year, Heft 4 N.F., April 3, 1939, pp. 489-501.

[220] It should be said that the grievance has sometimes been the other way. *Cf.* League of Nations, *Report of the Special Committee on Competition between Railways and Waterways submitted to the Advisory and Technical Committee for Communications and Transit* (Geneva, 1929), which was stimulated by a report on Rhine navigation by Walker D. Hines, who "had been struck by the unanimity of the complaints of Belgian, Dutch, French and German shipping interests as to the unfavorable effect upon Rhine navigation resulting from recent development of railway competition" (p. 9). The main report deprecated the tendency "to favor national seaports to the detriment of foreign ones" (p. 43). A spokesman for the Reichsbahn (the "conscience" of which was declared to be clear) pointed out that the proportion of rail- and water-borne traffic in Germany was the same in 1925 as in 1913 (p. 147).

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offered as a justification of the attitude toward waterways,[221] which is reflected in the absence of restrictive taxation.

In point of weight, the traffic carried by the waterways of Germany moved 23.9 per cent of the total tonnage.[222] Of the export goods which crossed Germany's borders in 1934, 47 per cent were carried in inland navigation, 37 per cent by rail, and 18 per cent by ocean shipping; of the imports, 33 per cent by inland waterways, 25 per cent by rail, and 42 per cent by ocean navigation.[223]

The attitude of the government toward inland waterways since 1933[224] has been definitely one of protective promotion. Two acts, notably, have embodied this purpose. That of June 16, 1933 proclaimed its concern in the alarmist title, "The law to combat the crisis in inland waterways navigation".[225] The minister of transport was authorized to unite the freight-carrying lines in associations, which would act under public auspices and be subject to the supervision of the ministry.[226] The minister was authorized to establish, or to have established by the associations, minimum and maximum rates for

[221] *Supplement to the Weekly Report of the German Institute for Business Research*, September 22, 1938. *Halbjahrsberichte zur Wirtschaftslage*, May 26, 1939. The spirit of harmonious coöperation among all traffic carriers is reflected in G. Koenigs, *Die neuen Gedanken in der deutschen Verkehrspolitik* (*Schriften des Instituts für Verkehrswissenschaft an der Universität Leipzig*, Heft 7) (Leipzig, 1938); O. Most, "Die gegenwärtige verkehrspolitische Lage in Deutschland", *Zur Verkehrspolitik im Dritten Reich* (*Verkehrswissenschaftliche Forschungen*, Heft 1) (Münster i. W., 1934).

[222] League of Nations, Special Committee on Competition between Railways and Waterways, *op. cit.*, p. 57. The percentage had been 21.6 in 1913, had fallen to 11.9 in 1921, but was about back to 21.8 in 1925.

[223] Gährs, "Wasserwirtschaft und Binnenschiffahrt", *Archiv für Eisenbahnwesen*, May-June 1937, pp. 545-9; *cf.*, also, *Halbjahrsberichte zur Wirtschaftslage*, May 20, 1938, p. 69.

[224] Germany denounced the provisions of the Treaty of Versailles regarding the internationalization of her principal waterways on November 14, 1936 (*RGBl* II, p. 361).

[225] *RGBl* II, p. 317.

[226] An executive ordinance of September 1, 1933 (*RMBl* p. 442) created the *Mitteldeutsche-Reedereien-Vereinigung;* that of January 12, 1934 (*RVBl* p. 5) created the *Elbe-Reedereien-Vereinigung;* and that of September 15, 1934 (*RMBl* p. 617) established the *Schiffer-Betriebsverband für den Rhein.*

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inland navigation.[227] The evident purpose was to stabilize a disorganized industry. If necessary, acting with the association, the minister might restrict existing barge and tug traffic and curtail new traffic facilities. The members of the associations might be assessed for the cost of destroying superfluous equipment. But the motive was protective, not punitive. This was shown in the second important act, that of July 2, 1936, which abolished the tax on the transportation of passengers and freight by waterways.[228] While in 1938 the waterways traffic exceeded that of 1929 by one fourth, the total tonnage of river and canal boats was less. Effective from March 1, 1938, restrictions placed on the increase of boats in the eastern river districts have been abolished.[229] The diversion of raw materials and bulk goods to the waterways has been actively encouraged. It was claimed that through the collaboration of committees, canal and water transport charges in 1937 were still 20 per cent lower than in 1928.[230]

Meanwhile new links were in course of execution.[231] Outstanding among these was the completion of the *Mittelland* Canal, which forms the first through-connection of the waterway systems of East and West. Outstanding, also, was the project of the Rhine-Main-Danube waterway, which offers communication by water from the North Sea, across greater Germany, to southeastern Europe and the Black Sea. The Adolf-Hitler Canal, connecting the Upper Silesian iron and coal fields with the Oder, was completed at the end of 1939. This waterway will gain in importance on the completion of the Oder-Danube Canal, one of its branches, as then direct coal shipments can be sent from Upper Silesia to the southeast of Europe. Both canals are part of a system which, when finished, will change the transportation face of southeastern and central Europe.[232]

[227] *Jahrbuch der nationalsozialistischen Wirtschaft*, p. 602; *Jahrbuch des öffentlichen Rechts der Gegenwart*, vol. XXII, pp. 205-6.

[228] *RGBl* I, p. 531.

[229] *Halbjahrsberichte zur Wirtschaftslage*, May 26, 1939, pp. 64-5.

[230] *Supplement to the Weekly Report of the German Institute for Business Research*, September 22, 1938, p. 4.

[231] *Ibid.*

[232] *Frankfurter Zeitung*, October 24, 1939.

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(4) *Over-all coördination.* Across the whole front of transport, in its many phases, has been erected a façade of collaborative union.[233] Transport forms main group 12 in the national organization of industrial economy.[234] The main group is divided into seven sub-groups, as follows: (1) ocean traffic (*Seeschiffahrt*), (2) inland waterways traffic (*Binnenschiffahrt*), (3) automotive traffic (*Kraftgewerbe*), (4) non-automotive conveyance (*Fuhrgewerbe*), (5) rail traffic (*Schienenbahnen*), (6) forwarding and storage (*Spedition und Lagerei*), and (7) travel (*Reisen*). These in turn are divided into further trade sub-groups. An advisory national traffic council draws together the heads of the national transport undertakings and services, with a number of outside representatives. Traffic councils in the several districts are somewhat similarly composed. The groups are in large part organs for the clearance and transmission of complaints and suggestions; power lies with the ministry.

This elaborate machinery is not asked to accomplish miracles of unity. A modified competition among the several modes of transport is still avowed. So far as coördination is achieved, its substance is probably mostly the work of the institutions and the concrete measures of control previously noted. Essential tools were at hand in the public undertakings. Most importantly, perhaps, the realization of whatever over-all concert has come in the field of transport may be traced to the existence of a government-owned, stable, flexibly managed railway net strong enough to absorb, up to this point at least, the burdens and sacrifices which coördination has required.

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[233] Körner, *op. cit.*, pp. 412 *et seq.*, 418. It will be observed that air commerce is not included in the design of the transport group. Air traffic is subject to the direction of a special ministry created by the ordinance of May 5, 1933 (*RGBl* I, p. 241), which supervises the *Deutsche Lufthansa AG*, the monopolistic operating company, and the *Reichsverband der deutschen Luftfahrtindustrie e.V.* (the top organization of the whole aircraft industry).

[234] The coördination was effected by an ordinance of September 25, 1935 (*RGBl* I, p. 1169).

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THE RISE OF REPUBLICAN GOVERNMENT IN THE UNITED STATES

INDEPENDENCE was the keynote of American life in the decade of the 1770's. So thoroughly was this true that American historians have continued to stress the note of independence and the struggle for its achievement. Yet the same period witnessed the equally important fact of the emergence of republican government. People at the time were aware of the superficial events involved, and historians since have recorded these facts, but the men of the time and writers of later date have been so oblivious to the purport of the movement that it has not occurred even to the students of constitutional history to inquire how and why American government became republican in form and character.

The development of republican government in America has a significance more than American. It has deeply influenced not only every later effort throughout the world to establish republics, but it has also operated to modify the character of many governments which have remained monarchical in form. Furthermore, the republican institutions developed by the Americans in the 1770's differed markedly from all preceding forms of government, at least in modern times, which have been called republics. Though American students of government in the last three decades of the eighteenth century [1] were familiar with the political forms and experiences of these older so-called republics, they were agreed that they found in them practically no helpful contribution to the American experiment. Then, too, every one of these earlier quasi-republics was moribund and disappeared from the political scene before the eighteenth century had ended. Consequently, consideration of Italian, Swiss and Netherlandish antecedents is clearly ir-

[1] See *The Federalist*, Nos. 19, 20, 39. Also *The Works of John Adams*, edited by Charles Francis Adams (Boston, 1850-56. 10 vols.), VI, 415; IX, 603.

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relevant to the discussion of the origins of republican institutions in America.

Likewise, writings describing republican governments, ancient or modern, with or without evaluating comments, and writings of a merely speculative or theoretical sort had so slight effect on actual developments as to require but passing comment. In any case, earlier writers on politics, descriptive or philosophical, are significant only in so far as their views were discussed by American writers of the last generation of the eighteenth century. Only when the expression of information and ideas by writers of the time was with positive conviction and with the intent to carry conviction does it require attention as definitely conducive to the development of republican institutions. The field of investigation, then, is narrowed down to the immediate necessities and impulses of the years 1775 and following in America, to the accumulated experience in colonial government, and to the English inheritance and example.

The word *republic* still remains to be defined.[2] For the

[2] The varieties of usage were so various in the eighteenth century that John Adams admitted: "The word *republic*, as it is used, may signify anything, everything, or nothing." (*Works*, X, 378; also V, 453). Indeed the words *republic* and *republican* were frequently employed in the eighteenth century in their strict etymological sense to refer to public or governmental affairs without any implications as to the form of government. The present day student of that period must be on guard to avoid confusing this usage with the derived and technical employment of the terms. Adams, on various occasions, utilized two different definitions: "A government whose sovereignty is vested in more than one person" (*Works*, VI, 428); and "A government of laws, and not of men" (in *Novanglus* [1774]; see *Works*, IV, 106). But in practice he insisted on the separation and balance of powers as the essential characteristic of a republic (in *Thoughts on Government* [1776]; see *Works*, IV, 379-382). An equally competent spokesman, James Madison, in No. 39 of *The Federalist*, found the criterion of a republic to be "a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior", and he added: "It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it." Thomas Jefferson, who rarely indulged in definitions, in 1816 characteristically declared that a republic is "a government by its citizens in mass, acting directly and personally, according to rules established by the majority." Letter to John Taylor, 28 May 1816, *Writings* (Memorial ed. Washington, 1907), XV, 19.

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purposes of this discussion a republic will be considered as a government based upon the principle of sovereignty of the people and as involving the exercise of the suffrage by a considerable portion of the people for the choice of the principal executive and legislative officials. A republic is normally a government of limited powers and of the division of powers with both elements of this social contract embodied in written documents called constitutions. In the last generation of the eighteenth century, the word *republic* usually stood in antithesis to monarchy but did not connote democracy—at least as that word is understood today. Strictly speaking, republic refers only to a form and method of government, while democracy signifies the content, manner or tendency of a government in its operation. This differentiation, therefore, excludes the various factors defined as democratic from consideration in this discussion.

The prototype of republican government in America was the business corporation. The English colonies in America were chartered corporations, and their governments were specialized developments of the corporation form, or else their governments were closely modeled on the analogy of the corporation or perpetuated corporation methods after the actual forms of corporation had ceased to exist. With all their peculiar divergencies the governments of the Thirteen Colonies possessed an essential similarity in practice in 1770 and were substantially unlike any other form of political government then in operation. In every case there was a large measure of actual self-government, and in two cases, Connecticut and Rhode Island, there existed almost complete self-government under the corporation charter of the colony. Practically, these two colonies were semi-independent, self-governing republics. Here, then, and in a few other cases the corporation charter or its equivalent survived as the basis of government, the written constitution, the embodiment of the social contract.

In every colony local self-government or home rule was almost complete in the various regional subdivisions. In every colony there was a representative legislative assembly, elected on a more or less liberal franchise, and possessed of extensive

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lawmaking and taxing powers, while a smaller and more select body combined many of the functions of an upper house in the legislature and of a governor's council. In every colony there existed, in some form or other, a well-established judiciary. In every colony there was a governor and in the two cases of Connecticut and Rhode Island this officer was elected within the jurisdiction. In the remaining colonies the governor was subordinated in practice to some degree of legislative control or limitation. In every colony legislation was in some way subjected to executive review or veto and in every colony the practice of judicial appeals might lead to judicial review of legislation. True, in the last two cases, the exercise of the function might reside in authorities in England. Obviously, then, many of the roots of republican government grew in the soil of colonial political practice. Yet, one would have been very rash, in 1775, to have spoken of the colonial governments as republican. Similarly no one at that date would have described the British government as republican, though it revealed some traits of republicanism.

The government of each English colony reflected, somewhat, the England of the date of its settlement. This was true to the greatest extent of those settled prior to the Restoration in 1660. The movement of settlers from England to the colonies in this earliest period was profoundly influenced by the current struggle over political and religious questions. In most cases the colonists came from the more liberal groups in England, and in America they tended to more liberal, or at least more particularist, views and practices. Isolation and the more primitive life in the wilderness naturally developed self-reliance and self-assertion both of individuals and of groups. Of special importance was the impact made by events in England in the first sixty years of the seventeenth century upon the colonists of that time and so, by tradition and custom, upon their posterity a century later.

From the great seventeenth-century struggle between the Stuart monarchs and their parliaments some significant conclusions emerge. Theoretical, descriptive and controversial writing exercised but little direct influence on events of the

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time, and that within a limited period of about seven years around 1649. Of the writers concerned only two,[3] Harrington and Milton, exercised any significant influence on thought and practice in the two centuries succeeding. Of these two Harrington through his *Oceana* seems to have been the more important. As late as the close of 1648, discussions more or less tinged with republican ideas, including such famous documents as the *Heads of the Proposals* and the *Agreement of the People*, were directed, not toward the establishment of republican government in England, but toward effecting an adjustment between king, parliament and the army to secure a working government which would conserve the reforming results of the Civil War. Definitely, it was the trial and execution of the king which led to the establishment of the Commonwealth, a sort of republic, as a necessary expedient for conducting government in the emergency. Even here the views of republican thinkers, such as the Levellers, exercised almost no practical influence. Political necessity, not political theory, determined action. The action produced Milton's political writings as an *apologia*. The two official documents of the period, the *Instrument of Government* and the *Humble Petition and Advice*, which were in some sense written constitutions, did not emanate from the will of the people, did not contemplate a real expression of the will of the people as a whole, and did not create really republican institutions. The institutions established by them savored of the English tradition of king, lords and commons rather than of republicanism. The governments actually established were thinly veiled military dictatorships of Cromwell.

All republican and democratic ideas of that revolutionary period passed into unpopularity and oblivion with the Restoration in 1660,[4] not to be revived and repopularized until the nineteenth century. The history of the period likewise fell into oblivion, except in so far as it was recorded by royalist

[3] The importance of Hobbes is not forgotten, but he was not in the republican tradition.

[4] See letter of John Adams to Samuel Adams, 18 October 1790, in John Adams, *Works*, VI, 415.

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or Tory writers. To these broad general statements there are two exceptions. The Americans in their revolution drew something from the two great political writers of that generation, Harrington and Milton, and from Algernon Sidney of the next generation, but much more from the tradition derived from the same source as the traditions of the Long Parliament but perpetuated independently in America. The French revolutionists also were aware, in a general way, of the parallelism of their efforts with the English struggle of the seventeenth century and at times seem to have been more or less motivated by the analogy.

The movement of political thought in the century between the Restoration of 1660 and the beginning of the American revolutionary struggle, therefore, did not emanate from the period of the great Civil War in England, but took a new point of departure from England's Glorious Revolution of 1688 with its famous *Bill of Rights*, and with its able *apologia* from the pen of John Locke. From these sources issued streams of influence which operated in England, America and France until the American Revolution opened new fountains of republican energy. In this interim of a century, republican ideas were practically taboo and no direct contribution to their development was made except by Algernon Sidney. In theory, as well as in practice, monarchical ideas were dominant and culminated in the theories and practices of the enlightened despotism, the very antithesis of republicanism.

Consequently, in coming to the American Revolution, one is somewhat prepared for the surprising discovery that the words *republic* and *democracy* were under taboo in that great struggle from which modern republican government emerged. They were words which would alarm the propertied classes whose support or at least sympathy the advocates of the colonial cause were anxious to enlist. Rights of citizens, liberty, constitutional government, even independence, were phrases which carried no such menace to law, order, and security of property as did republic and democracy, which revived unhappy memories of the great Civil War in England in the preceding century. Furthermore, these leaders had already, since the

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battle of Bunker Hill, foreseen the need of outside aid in their struggle and that France was the logical source to which to turn for assistance. It would be folly to indulge in language which would necessarily affront that absolute monarchy when it was handicap enough to be supplicating as rebels for its support.

The available evidence indicates clearly that republican government in America developed in 1775 and 1776 from political necessity and not from political theory or public agitation, exactly as in England in 1649, and, apparently, without any recognition of the precedent. Writing in his *Autobiography,*[5] concerning the appearance and character of Thomas Paine's *Common Sense,* John Adams said that it was a tolerable summary of ideas that had been frequently discussed for nine months past (that is, May 1775 to January 1776) in the Second Continental Congress, whose sessions it will be recalled were secret and of whose debates little is known even today.

On 23 March 1776,[6] Adams wrote to General Gates: "All our misfortunes arise from a single source, the reluctance of the southern colonies to republican government." He further complained of "the barons of the south, and the proprietary interests in the Middle States, as well as . . . avarice of land," but hoped for "such a form of government as Connecticut, or one not quite so popular." A little later Adams confided to his wife[7] that "government in every colony, a confederation among them all, and treaties with foreign nations" were essential to independence. The same sentiments were expressed to Patrick Henry,[8] who replied on 20 May 1776: "Our [Virginia's] Convention is now employed in the great work of forming a constitution. My most esteemed republican form has many and powerful enemies."

[5] *Works,* II, 503-517. This fragment covering parts of 1775-1776 was written after 1790.

[6] *Works,* I, 207.

[7] 12 April 1776, *Works,* I, 213.

[8] *Works,* I, 214.

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Jefferson in his *Notes on Virginia*,[9] written in 1781, recorded these significant statements: "It is well known, that in July 1775 a separation from Great Britain and establishment of republican government, had never yet entered into any person's mind. . . . [In April 1776] Independence and the establishment of a new form of government, were not even yet the objects of the people at large." At the latter date, he added, few in Virginia yet knew of Paine's *Common Sense*. For these statements, contemporary support is found under the title "Plan of the American Compact" printed in the New York *Gazette* of 8 April 1776, which declared that: "The Continental Congress have never lisped the least desire for independency or republicanism. All their publications breathe another spirit." [10]

The earliest references in the newspaper press to republican government cited by Frothingham in his *Rise of the Republic* are from the *Essex Gazette* (Salem, Massachusetts) on 23 November 1775, anticipating "a Grand Republic of the American United Colonies"; [11] and on 1 January 1776, favoring a "republic state"; [12] and from the *Pennsylvania Journal* (Philadelphia) on 13 March 1776 also approving republican government.[13] The earliest expressions by any unit of government mentioned by Frothingham were resolutions adopted by some town meetings in Massachusetts as late as May and June 1776 desiring that America should become a free and independent republic.[14]

From private sources the earliest references are found in John Adams' diary. Under date of 24 September 1775 he referred to Dr. Benjamin Rush as a "republican".[15] On 12 October 1775, he quoted Zubly [16] as saying: "A republican

[9] *Writings* (Memorial ed.), II, 165-166.

[10] Quoted in Richard Frothingham, *The Rise of the Republic of the United States* (8th ed. Boston, 1902), p. 499.

[11] *Ibid.*, p. 452.

[12] *Ibid.*, p. 468.

[13] *Ibid.*, p. 481.

[14] *Ibid.*, pp. 507-508.

[15] *Works*, II, 427.

[16] Zubly, one of the delegates from Georgia, was a clergyman who had migrated to the colony some years before from Switzerland.

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government is little better than government of devils. I have been acquainted with it from six years old." On 25 October 1775 Adams described the Transylvania proprietors as "charged with republican notions and Utopian schemes." Apparently, Adams did not mention the word even in intimate correspondence until 8 January 1776 when he addressed Mercy Warren: "Pray Madam, are you for an American Monarchy or Republic?" In discussing his own views he concludes: "As Politicks therefore is the Science of human Happiness and human Happiness is clearly best promoted by Virtue, what thorough Politician can hesitate who has a new Government to build whether to prefer a Commonwealth or a Monarchy?" [17]

Having seen the obvious restraint with which the idea of a republican solution of the problem of government was treated and how its discussion was confined to the secret precincts of the Continental Congress until the early months of 1776, it is now time to consider the actual steps by which the change of government was effected, and that, be it noted, with continued forbearance from the use of the terms *republic* and *republican*. In beginning, it must be observed that the undesired and unexpected breach with the Mother Country left the colonies suddenly confronted with the problem of maintaining their own governments. If they were to avoid anarchy and prosecute their own defense, their choices were confined to monarchy, dictatorship or republic. How could there be a monarchy without an available candidate for the throne? Could a person be found who would immediately commend himself to all the colonies as dictator? The mere statement of the questions is sufficient to show that quite apart from any predilection the only possible choice was a republic, first for each colony individually and then for the Union.

The peculiar situation of Massachusetts after the battles of Lexington and Concord made it the first colony in which action was necessary. On 2 June 1775, a letter was presented to the Second Continental Congress by the Massachusetts delegates requesting advice about some method of conducting govern-

[17] *Warren-Adams Letters* (Mass. Hist. Soc., 1917), I, 201-203.

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ment in the emergency. A few days later Congress adopted a resolution, reported by a Committee,[18] recommending that the people of Massachusetts choose a freely elected body of representatives in accordance with their royal charter and proceed to establish officers of government as nearly as possible in accordance with the charter. This was the least revolutionary action that could be taken to attain the end in view. The colony, moreover, was careful to act only on the advice of Congress as representative of the common interest of all the colonies.

No other occasion for action arose until after the king's proclamation that the thirteen colonies were in a state of rebellion and the departure of the royal governors from the colonies. Then, on 26 October 1775, New Hampshire, on 3 November, South Carolina, and on 10 November, Virginia, made similar application to Congress for guidance. In substantially identical terms each of the three was advised: "To call a full and free representation of the people, and that the representatives, if they think it necessary, establish such a form of government, as, in their judgment, will best produce the happiness of the people, and most effectually secure peace and good order in the province, during the continuance of the present dispute between G[reat] Britain and the colonies."[19] On 5 January 1776 the New Hampshire legislature adopted a document, known as the first constitution of the state, which contained a very slender frame of government. South Carolina took similar action on 26 March 1776 but embodied somewhat more specific provisions in its provisional constitution. Virginia did not complete its work until 29 June 1776 and produced a more complete constitution with a bill of rights.

[18] John Rutledge, Thomas Johnson, John Jay, James Wilson, Richard Henry Lee. Report adopted, 9 June.

[19] *Journals of the Continental Congress*, 3 November, 4 November, 4 December 1775. The original statement was framed for New Hampshire by a committee composed of John Rutledge, John Adams, Samuel Ward, Richard Henry Lee and Roger Sherman. Circumstantial evidence points to John Adams as author of the resolution.

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Back of this Virginia constitution was significant history, as has already been hinted in the quotation from the correspondence between John Adams and Patrick Henry. As members of the Continental Congress, and of the special committee just mentioned, John Adams and Richard Henry Lee had personal conversations over the problems of government. In pursuance of a request from Lee, Adams, under date of 15 November 1775, wrote a memorandum [20] outlining briefly but with characteristic comprehensiveness his suggestions for a provisional form of government for a colony. Lee, it may be presumed, showed this draft to some of his Virginia colleagues.

Two months later a thunderbolt was hurled into the tense atmosphere. On 10 January 1776 there appeared from the press in Philadelphia Thomas Paine's pamphlet, *Common Sense*. Paine's argument involved an incessant tirade against monarchy in general and the English monarchy in particular. In contrast the words *republic* and *republican* are used only nine times and in each instance in a merely descriptive sense and only in connection with Old World affairs. Never did he explicitly commend a republican government or propose republican government for America. He did propose a constitutional convention, a constitution, and a very liberal republican type of government for the American Union. He proclaimed [21] that, if Congress should declare independence, "We have every opportunity and encouragement before us, to form the noblest, purest constitution on the face of the earth. We have it in our power to begin the world over again."

Paine's ideas on government, which were probably acquired from radical leaders in Pennsylvania, met with slight favor from John Adams, who forthwith embodied his ideas in a pamphlet called *Thoughts on Government*.[22] In the two

[20] John Adams, *Works*, IV, 185-187.

[21] In the "Appendix" added to later editions.

[22] Philadelphia, printed by John Dunlap, 1776; reprinted in *Works*, IV, 189-200. The original editions of this pamphlet and of *Common Sense* were issued anonymously. For the circumstances see Adams' *Autobiography*, in *Works*, II, 503-517, and Letter to Benjamin Rush, 12 April 1809, *Works*, IX, 616. There shortly appeared, in reply, a thin and extremely conservative plan of govern-

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months since his letter to Lee, Adams had crossed the Rubicon [23] from suggesting a merely provisional government to proposing an enduring government based on a written constitution and definitely republican in character and name. Furthermore he outlined the division of the powers of government into executive, legislative and judicial and the necessity for a bicameral legislature. Adams later claimed priority for the publication of these ideas as practical proposals for American adoption. His scheme did have definite influence upon the Virginia constitution, framed five months later, and upon various others thereafter.

By 10 May 1776 the movement for independence had gained such headway that Congress recommended that the colonies which had not already acted should "adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general." Five days later a justificatory preamble, drafted by John Adams, was prefixed, which contains the significant words, "All the powers of government exerted, under the authority of the people of the colonies."

Apparently the first colony to act under this general authorization was New Jersey whose constitution was completed on 2 July 1776. Maryland followed on 14 August 1776. The

ment whose author has never been definitely identified but is supposed to have been Carter Braxton of Virginia. The following sentences are the critical ones in Adams' pamphlet, which was very significant and exceptional for the frank and explicit use of the word *republic:* "A man must be indifferent to the sneers of modern Englishmen, to mention in their company the names of Sidney, Harrington, Locke, Milton, Nedham, Neville, Burnet, and Hoadly. No small fortitude is necessary to confess that one has read them. The wretched condition of this country, however, for ten or fifteen years past, has frequently reminded me of their principles and reasonings. They will convince any candid mind that there is no good government but what is republican. That the only valuable part of the British constitution is so; because the very definition of a republic is 'an empire of laws, and not of men.' That, as a republic is the best of governments, so that particular arrangement of the powers of society, or, in other words, that form of government which is best contrived to secure an impartial and exact execution of the laws, is the best of republics."

[23] See above, p. 207, his letter dated 8 January, two days before the publication of *Common Sense.*

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Delaware constitution, completed on 10 September 1776, was the first drafted by a convention elected for the express purpose. Pennsylvania, North Carolina, Georgia followed in order and then New York on 20 April 1777. Rhode Island and Connecticut took definite action in 1776 continuing their colonial charters as their bases of government, though Thorpe considered that they "had unwritten constitutions, for they had outgrown their charters, though nominally organized under them." [24] To this same period belongs the first constitution of Vermont adopted in July 1777, though its statehood was not recognized till 1791. Finally the Continental Congress, after much delay, finished the draft of the Articles of Confederation on 15 November 1777, completing this epoch-making spasm of writing constitutions.

Of the thirteen states Massachusetts alone had not participated in this constitution-making program, though it took some preliminary steps in 1777. This state did not complete and adopt its constitution until 1780. This four-year period of gestation gave to Massachusetts the first constitution ever framed and ratified in accordance with what have long been the accepted republican methods and also a constitution more nearly than any of its predecessors of the type that became standard in the nineteenth century. The real author of this constitution was none other than John Adams who more than any other individual was responsible for launching and steering the movement for constitution-making and whose ideas, more than those of any other single person, guided and pervaded the movement which established republican government in America and therefore in the modern world. Let it be added, of all the constitutions framed prior to 1787, this Massachusetts product of the brain of John Adams alone continues in force today.

One further task remained to complete the work and that was to give to America and to the world an adequate *apologia* for America's first set of republican constitutions. This undertaking likewise fell to John Adams who performed it in his

[24] Francis N. Thorpe, *A Constitutional History of the American People* (New York and London, 1898), I, 140.

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Defence of the Constitutions of Government of the United States of America,[25] of which the first volume fittingly appeared just before the meeting of the Federal Convention in Philadelphia, and so anticipated by some months the appearance of the other great exposition of American constitutional ideas by Hamilton and Madison in *The Federalist.* Modestly, Adams made no allusion to his share in producing these constitutions. Indeed, though the details of evidence have long been familiar to historians, this is perhaps the first time that they have been marshaled together to give Adams the credit for what was the greatest of his many important services to his country—its establishment with republican government based on written constitutions.[26]

With regard to the derivation of the ideas which entered into the making of republican government in America, the first question has to do with the use of the written constitution. The direct source was clearly the practice of statutory legislation, for the earliest constitutions were framed by bodies which also acted as regular legislatures and the procedure and results were but little differentiated from ordinary legislation. The basic idea emerged from the notions of fundamental law which had long been a subject of discussion by political and legal writers. These ideas had been prevalent in seventeenth-century England and were familiar to the American colonists.[27]

[25] Three vols., London, 1787-1788; reprinted in *Works*, vols. IV and V. Vol. I was reprinted in Boston, New York and Philadelphia in 1787.

[26] Charles Francis Adams in editing his grandfather's *Works* prefixed a brief preface to the works on government in which he said: "It is intended in this to present, in one clear and connected view, the system upon which he acted in reorganizing society upon the basis under which the country has thus far prospered. It will be perceived that, from first to last, from the year 1775, before the Declaration of Independence, down to the year 1793, when the present constitution had become fully established, the principles upon which he acted and counselled remain substantially the same. . . . Upon them [his *Works*], the reputation of the author with posterity must ultimately rest, far more than upon his active career. The system, though developed to serve an immediate purpose, is based upon a close examination of human nature, in every phase of its republican experience." *Works*, IV, 181-182.

[27] See Charles F. Mullett, *Fundamental Law and the American Revolution, 1760-1776* (New York, 1933). Also, Benjamin F. Wright, *American Interpretations of Natural Law* (Cambridge, 1931).

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The significant achievement was the effort to embody particularly important portions of the fundamental law into statutory form with authority superior to ordinary enactments and more enduring. The notion of the social compact taken together with the business practice of making contracts in writing was probably also basic. Practical precedents could be adduced from several sources such as English measures like the *Instrument of Government* of 1653 and the *Bill of Rights* of 1689, but more directly from the colonial charters of which those of Massachusetts, Connecticut [28] and Rhode Island had continued in force down to the Revolution. These sources taken together with English and colonial legislation and practice furnished much of the concrete materials either directly or as potential remedies for unsatisfactory experiences in the past.

Those experiences had ingrained the fear of power as the great motive force for the division of powers of government and for the use of checks and balances. Elements of these devices came from colonial experience. The theories came from the philosophical writers on politics, especially Montesquieu.[29] The results, as gradually worked out in the first set of constitutions, however, marked a distinct advance over both the theorists and earlier practice, especially in the case of the

[28] Though the Charter of 1662 embodied important elements from the Fundamental Orders of Connecticut of 1639, the writer has found no evidence of positive use of the Orders themselves in the eighteenth-century discussions. In general the Fundamental Orders and similar or analogous colonial documents of the early seventeenth century seem to have fallen into oblivion in the eighteenth century though their nature and content obviously suggest that they might well have been significant factors in the development of the republican tradition.

[29] For Adams' views on Montesquieu, see *Works*, X, 257. Thorpe (*op. cit.*, I, 40) rightly awards some credit to Blackstone, but the main trend of American constitutional development was away from the English system as expounded in the *Commentaries*. Curiously enough, Blackstone's name does not appear in the general index of Adams' *Works*, and the writer has encountered no references to him in Adams' writings. Nor have any references been found in the writings of other contemporary leaders except those of Samuel Adams, Hamilton and Madison. The first two quoted Blackstone in their arguments against England prior to Independence. Madison's references are of later date and without significance.

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judiciary, and for this the chief credit is undoubtedly due to John Adams.

The inclusion of reservations of rights of the individual, whether in formal bills of rights or as incidental items, resulted about equally from the philosophy of natural rights and from English and colonial precedents.

As already suggested, republican government emerged as an almost inevitable solution for a pressing political necessity, but it required a trained political thinker, such as Adams, familiar with the literature and history of the subject to discern the situation and to point the way out, which was obvious as soon as indicated. While the chief credit for vision and leadership throughout the movement now seems clearly deserved by Adams, there were competent and cheerful co-workers. Thorpe suggests that the twenty-six American constitutions produced in the eighteenth century were essentially the work of twenty-six men;[30] that is, in each case some one individual bore the brunt of the work. Thorpe also calculated that seventeen hundred individuals had been members of bodies which had drafted constitutions prior to 1800.[31] Many minds and many hands were necessary to rear the structure of republican government in America.

With the signature of the definitive treaty of peace with Great Britain on 3 September 1783 the United States stood before itself and before the world as the first fully republican modern nation—the first republic clearly on a basis broader than municipal. The circumstances, which had heretofore enforced caution upon the Americans about proclaiming their republicanism, were now removed and the next half-dozen years witnessed the Americans giving rein to their newborn

[30] Thorpe, *op. cit.*, I, 39. Incidentally, Thorpe does not seem to have given much, if any, consideration to the part played by Adams, for he dismisses him rather slightingly in a single sentence (I, 45), but glorifies Jefferson and especially Franklin as the leading exponents of American political thought in the movement (I, 41-44). The evidence does not seem to confirm his views, though Jefferson and Franklin certainly did exercise some influence. John Jay, John Rutledge, Richard Henry Lee and George Mason should also be mentioned among the leading creative minds and active workers.

[31] *Ibid.*, I, 138. This estimate probably needs correction to a larger figure.

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republicanism. The long discredited period of the Confederation deserves re-interpretation from this point of view. It was then that American republicanism became aggressive and militant at least among certain sections of the population within the nation itself.

Important as are the period of the Confederation and its great achievement, the Federal Constitution, their consideration must be omitted except for one significant point. The first explicit official recognition of republican government in America appeared in the Federal Constitution, article 4, section 4, which reads in part: "The United States shall guarantee to every State in this Union a Republican Form of Government. . . ." In no earlier constitution do the words *republic* or *democracy,* or their derivatives, or any obvious circumlocution for them appear. The first constitutions of Virginia, Pennsylvania and Massachusetts, however, officially entitle those States as Commonwealths. The first and second Vermont constitutions also use the word *Commonwealth,* but these are the only cases in which this word is used. It is obvious that the adoption of the Federal Constitution solidified the structure of republican government in America as far as official action is concerned.

The popular acceptance of republican government and devotion to it were, however, primarily the work of the twelve years from 1789 to 1801. The definite establishment of republicanism in the American mind would probably have developed normally though perhaps more slowly, but the coincidence of the French Revolution undoubtedly strengthened and accelerated the process. It was the genius of Jefferson, in the great struggle between the Federalists and his followers, that focused American opinion against monarchy and in favor of republicanism. It is no cause for wonder that the American people took a deep interest, and a considerable part of them a very sympathetic one, in the French movement first for constitutional government and later for republicanism. As in England in 1649 and in America in 1775-1776, France in 1792 found itself suddenly facing an emergency situation which drove it to accept republican government. In the French case,

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however, for about a year there had been some agitation in favor of republicanism, but once the French nation was committed to republican government it became strongly propagandist in favor of it, quite unlike the antecedent cases in England and America. It was this fact of the propagandist nature of republicanism in France, together with the great war of revolutionary France against European monarchies, that lent strength simultaneously to the growth of American convictions in favor of republican government. By the time of Jefferson's inauguration as president in 1801 it had become entirely clear that the American people were by genuine conviction committed permanently to the theory and practice of republican government.

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SEPARATION OF CONTROL AND LAWMAKING IN SWEDEN[1]

ONE of the principal problems confronting modern constitutional governments is that of finding devices for granting administrative authorities a wide range of policy-forming and discretionary power without forfeiting ultimate responsibility to the governed or to their representatives. Obviously the earlier notion of the separation of powers is undergoing revision, or even violent negation, under the pressure of present-day conflicts of interest. Sweden, having adopted Montesquieu's doctrine only in part, has developed a relationship between the executive and legislative branches of government that is at least modestly effective in meeting the problem, and is worthy of notice. The Swedish constitutional document, as adopted in 1809,[2] embodies a mingling of the eighteenth-century doctrine of separation of powers, without distinguishing powers from functions, and provisions arising out of earlier Swedish experience and institutions. The original wording of most of the document, especially the parts significant here, still stands, and as might be expected in a monarchy, the express terms are that the king alone governs—but according to the constitution.[3] Thus the king was given the complete range of administrative authority—with the exceptions only of the state bank, the public debt office, and the parliamentary library—to be exercised, however, only in the

[1] No attempt has been made herein to give sources of Swedish opinion for which the writer is indebted to numerous persons in Swedish official, university and private life whom he has consulted.

[2] The constitution in the strictest sense of the word is called *Regeringsformen*, form of government. Three other documents, scarcely of lower order, are, along with *Regeringsformen*, considered to be the *Grundlagar*, and all four are amended in the same manner. They are: *Riksdagsordningen, Successionsordningen*, and *Tryckfrihetsförordningen*, the law of parliament, the law of succession, and the law of freedom of the press, respectively.

[3] Article 4.

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presence of and after having received the advice of his ministers in council.[4] So complete was this power as to embrace even legislative action affecting the organization[5] and course of the administration, currently spoken of as "economic" legislation.[6] This was originally very closely related to the German conception of the administrative right to issue *verordnungen*.[7] The power to tax was reserved entirely to parliament,[8] while the power to legislate generally on civil and criminal law was vested jointly in the king in council and parliament.[9] Hence the ground was laid for something like the Anglo-American distinction between statutes and administrative legislation, except that the Swedish arrangement envisaged no parliamentary organic statutes to set the frame within which the rules and regulations were to be valid. Parliament might petition the king about the making of an administrative order, but the king would decide.[10] Even as to statutes, if parliament took the initiative to change the law, it was anticipated that the king could exercise a veto power at his discretion, in council.[11] With the reform of parliament, however, and particularly with the maturing of thoroughly responsible, parliamentary government, has come a gradual but complete readjustment of this earlier concept. The boundary between laws enacted by the king and parliament together and

[4] Constitution, Articles 7-9.

[5] Constitution, Article 5.

[6] Constitution, Article 89. This article refers to "the amendment, interpretation and repeal of laws and regulations touching the public administration [*hushållning*] of the kingdom", but the term employed by the reporting committee in 1809, *ekonomisk lagstiftning*, has persisted. Robert Malmgren, *Sveriges Grundlagar* (Stockholm, 1937 ed.), p. 100.

[7] Nils Herlitz, *Inledning till Förvaltningsrättens Studium* (Stockholm, 1937), p. 94.

[8] Constitution, Articles 57, 60, 61.

[9] Constitution, Article 87, par. 1. An element of slight functional devolution in legislation was also included in that laws affecting the established church, while enacted by the king and parliament, must also be approved by the general church council. Article 87, par. 2.

[10] Constitution, Article 89.

[11] Constitution, Article 87, par. 1.

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the administrative ordinances naturally was never so clear [12] but that the exigencies of modern social and industrial legislation, together with budgetary and other devices of control, have, in effect though not in form, subordinated the originally independent administrative lawmaking to the parliamentary. Without the alteration of any documentary phraseology in this respect, the principle of separation of powers is in fact gone; but it is not forgotten, since commentaries on Swedish constitutional law, for very practical purposes, begin naturally with the literal expression of the constitution before indicating the practical limitations on the king in council and the invasion by parliament in the control of administrative legislation. Nevertheless, early practice and literal application of the constitutional provisions just mentioned encouraged the administration to take the initiative in nearly all lawmaking. And notwithstanding parliamentary control, most of that initiative, as far as technical processes of investigation and drafting are concerned, still remains, very significantly, with the executive branch.

In consequence of this change, complete power and ultimate authority in Swedish government now rests in fact, undivided, in parliament; and in place of the principle of separation of powers has come, though the Swedes themselves may not yet be fully prepared to recognize it, a separation of functions.[13] Parliament operates primarily as an agent of control of all governmental processes — legislative and administrative — while the administrative authorities function both in initiating or formulating policy and in carrying out approved or unprotested policy. This statement, the writer is inclined to believe, is subject to challenge only on the ground that parlia-

[12] For an account of the various attempts at clarification of these categories and the practice short of clarification see Robert Malmgren, *Riksdagen och Lagstiftningen* (Stockholm, 1934, being volume XIV of *Sveriges Riksdag*), ch. 4.

[13] Current Swedish politics render this statement none too popular. Conservative party leaders, fearful of the Social Democratic majority, are inclined to cry "dictatorship" because of the new-found power exercised by the Social Democratic ministry. The small Liberal party considers this charge nonsense, but the Social Democrats themselves resent the imputation.

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mentary action is so ubiquitous, through its devices of detailed surveillance, that administrative authorities themselves may feel that parliament is meddlesome—not, however, through interference with an individual office or officer, since practically the entire civil service is on a permanent merit basis. With the administration well under representative control, the delegation of considerable lawmaking is quite possible and natural without arousing any great fears. It is commonly done, but with much the same precautions, where civil rights are involved, as are taken in Anglo-American countries.[14]

This parliamentary expansion of power and self-confidence can be attributed to numerous factors. Parliament, though bicameral in form, acts very much as a unit through its constitutionally established joint committees, *utskott,* and is, for various reasons, troubled very little with intercameral division of power. Taxation and budgetary powers are so defined as to make the ministry the servant of parliament in the preparation of financial measures, and parliament may and does alter items without fear of incurring the penalties of a government crisis. This fact, together with the constitutional subordination of the state bank and the public debt office to parliament directly, makes it possible for parliament to influence governmental action in more than the mere wording of legislative enactments. But in these, also, the ministry frequently has been obliged to bow to parliament, especially before any political party gained a majority membership in either chamber, so that political responsibility is on a firm footing. Legal responsibility of the administration is even more deeply rooted in the

[14] Theoretically there is no right of delegation, and contrary to what might be expected, the constitutional question as to the right to delegate legislative authority on administrative matters centers in the meaning of Article 89, which reserves to the king the right to legislate on these affairs independently of parliament, but adds that "If the king wishes to consider with Riksdag any matters relating to the general administration of the country, the procedure shall be the same as that . . ." for civil and criminal laws. Can the king delegate to parliament a general legislative power over the administration? In effect that is practically what has happened, and parliament in effect redelegates part of it again to the administrative branch. See Malmgren, *Riksdagen och Lagstiftningen,* ch. ix, especially pp. 190-193, and Nils Herlitz, *Om Lagstiftning* (Stockholm, 1930), sec. 48.

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Swedish system—legal responsibility both to the courts and to parliament. According to the constitution, strictly, the king could and would reach his own decisions, provided he did it in council where minutes would be recorded. The ministerial advisers were made responsible, not for the decision taken, but for the nature of the legal advice they gave the king.[15] Parliament has the constitutional right and duty, moreover, through its joint constitutional committee, to review, with certain exceptions, these minutes, *protokoll,* and on the basis of them, if advisable, to demand the removal of ministers or even to order impeachment proceedings.[16] Impeachment, however, seems to be outmoded. This legal responsibility of the ministers to parliament, in addition to that before the courts, thus antedated political responsibility. This sort of legal accountability now merges imperceptibly into the political under parliamentary government; but it has left its mark on the structure of the administration for policy formation, separating in large measure the ministry, boards, special commissions, and the law-drafting civil servants from the departments below, in such a manner that bureau chiefs need not fear to give either a minister or a parliamentary committee, through the means of entries in *protokoll* and reports, genuinely independent advice.

This parliamentary self-assurance is also enhanced by certain constitutionally established agents of control. A board of reviewers or auditors is elected in equal numbers from each chamber to visit administrative offices and institutions,[17] not only to see that expenditures have been made in accordance with budgetary prescription, but even to question the wisdom,

[15] Article 9.

[16] Articles 105-107. The procedure of this committee is described briefly in Gunnar Dahlberg and Herbert Tingsten, *Svensk Politisk Uppslags Bok* (Stockholm, 1937), under *dechargeförfarande,* pp. 97-100.

[17] Constitution, Article 107, par. 3, and *Riksdagsordningen,* sec. 72, and *Instruktion för riksdagens revisorer,* all reprinted in Malmgren, *Sveriges Grundlagar.* The six members from each chamber begin their work on September 16, and finish after about three months, making their report available for the next session of parliament.

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at times, of continuing appropriations.[18] Responsibility of administrative officers before both civil and administrative courts apparently is about as complete as is contemplated anywhere under the "rule of law", for not only may complaints against administrative action be readily carried before these courts by private initiative, but the constitution establishes two agents of parliament, attorneys, one for civil matters, *justitieombudsman,* and the other for military and naval cases, *militieombudsman,* to hear and investigate any such complaints and even those against the operation of the courts, to bring about corrections, or actually to prosecute an officer before the courts. The position of these parliamentary agents parallels that of the administration's own attorney-general.[19] Moreover, in any question as to what is the law, or how even the constitution is to be interpreted, parliament again is in supreme control,[20] and once every four years even the work of the highest courts and the administration of the laws governing the freedom of the press are subject to review by specially selected parliamentary committees.[21] Under the conditions of this highly concentrated power of control, and its fastidious exercise, in a parliament that can usually act as a unit, it is not surprising to find that body willing to accept technical preparations from the administrative branch and to delegate to it a part of lawmaking.

Fully responsible parliamentary government having been established only recently, the system obviously is somewhat in transition, and the lack of a definite concept of a separation

[18] For instance: a report of this committee in December 1938 called attention to wide discrepancies in psychological standards of measurement and treatment in penal institutions and on that basis questioned the validity of so great an expenditure for such work. *Dagens Nyheter* and *Svenska Dagbladet,* Stockholm newspapers, Liberal and Conservative, respectively, December 16, 1938.

[19] Constitution, Articles 96-100.

[20] "No interpretation of the provisions of the fundamental laws shall be valid in the future except by amending such laws in the manner prescribed for them" (Article 83), and this would be by parliament through extraordinary procedure (Article 81).

[21] Constitution, Articles 103 and 108, respectively.

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of function is well illustrated in the nature of the so-called statute book, *Svensk Författningssamling*. This is an annual collection of laws, ordinances and regulations enacted, adopted or issued by the government in the course of the year, listed and numbered in the chronological order in which they have been printed and thus made public. The terminology can be quite bewildering.[22] Those items coming under the heading of civil and criminal laws enacted by the king and parliament are distinctly statutes in the Anglo-American sense of that term; each is designated *lag,* and its clause of promulgation reads *med riksdag*. Of course, these appear during and shortly after the close of a parliamentary session. Interspersed with them and appearing throughout the year are many administrative orders of various kinds.[23] Government officials, judges and lawyers alike have difficulty, however, in answering the question: Which of these orders, if any, correspond to the Anglo-American statute? For they all have the effect of law, and are law. They all pertain to that general division which in early nineteenth-century thought belonged to administrative economy and was supposed to be independent of parliament. Then there are general ordinances, *förordningar,* and—the most common heading—regulations, *kungörelse*. Both of these either are statutes directly in themselves, as having been adopted by parliament, or are the detailed administrative regulations promulgated entirely within the frame of a law of statutory character referred to in its contents. They, like the statutes proper, tend to be of general application, regardless of the agency which enforces them. Other items are designated as *brev* or *instruktion,* if directed to a single administrative agency or institution, or *cirkulär,* if directed to more than one. Rarely are these enacted by parliament directly, and in many cases they do not even refer to "statutory" authoriza-

[22] The constitution is often called *författning*, merely statute or law, because it was originally adopted in the form of a statute, and three other fundamental laws are designated *ordning* or *förordning*, ordinance, even though they stand almost on a parity with the constitution.

[23] The total number of items of all kinds appearing in the two volumes for 1937 was 1040.

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tion.[24] In terms of content, anything that touches the citizen's basic rights in any serious fashion, whether or not included in the original concept of civil and criminal law, requires parliamentary action. In criminal law, however, this does not mean that an administrative order may not fix the purely minor penalties deemed necessary to assure compliance with the law. In terms of authority, probably the vital point in distinguishing between statutes and ordinances is the power to alter these various *författningar.* The line is not drawn between *lag* and the various orders. Of course, whatever parliament has definitely expressed can be changed only by parliamentary enactment, but all other items, regardless of title, must either have such an authorization or be able to stand the test of responsibility before parliament.

The same sort of draftsmanship and reliable, uniform legal expression is exemplified in practically all the items appearing in the Swedish law book, whether they be enactments of parliament or sundry ordinances, because usually the same administrative draftsmen and secretaries do the work. Bills in parliament may arise in either of two ways: by a government *proposition* accompanied by a draft of a bill, *förslag,* or by a private motion in parliament. If it is a government proposition, it has been prepared by the regular administrative draftsmen; but that is generally true also of any enactment in consequence of a motion. For, more often than not, a motion, when adopted, states a desired principle only, and calls upon the government to present a proposition and draft-bill embodying that principle. Whether, when finally adopted, this is called *law* or *ordinance* depends more on substance than on the process or authority ordering it. Hence, in the Swedish system the statute, in the Anglo-American sense, may not necessarily be a statement of the general principle with the pious hope that administrative ordinances issued according to its provisions will be "reasonable", appropriate and accept-

[24] Other items, such as *reglement,* in connection with financial administration, and *stadga,* governing minor tax collection, only occasionally find their way to the "statute" book. See Nils Herlitz, *Inledning till Förvaltningsrättens Studium,* pp. 94 *et seq.*

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able. Swedish practice in this respect is no more uniform than the American, and probably cannot be; but the attempt to distinguish between a statute setting forth a legal principle to be made effective and one embracing both principle and detailed applications is of much less significance in Sweden. It seems that where the separation of powers among distinct offices is abandoned, the important question is not the form of the statute, but rather responsibility for making and applying any policy.

Administrative lawmaking or policy formation, including preparation for parliament, is, in Sweden, not the product of individuals working out orders or bills single-handed. The separation of the upper administration from the bulk of the lower administration is such that the upper reaches and policy-forming agencies are highly collegial in form, and policy determination, in consequence, is the result of deliberate processes. A direct line of authority by which orders may be made and transmitted from officer to officer downward through a department, from minister to scattered agents, does not fully obtain in any department. A minister's contacts with his department largely concern future policy, and those contacts are mainly collegial in character through the medium of an unsystematized galaxy of permanent and temporary administrative committees and boards, especially in the Social Department—with no uniformity even as to terminology. The permanent boards are equipped to deliberate on administrative policy and to issue minor regulations, and occasionally some of them are directed to make particular investigations and draft proposed bills to fit their findings; but they do not handle the bulk of the bills nor any of the propositions for statutes and major ordinances.

The characteristic Swedish structure for the preparation of all matters, including propositions and bills, for consideration of the ministry, is composed of several elements: First, at the apex of the hierarchy through which a bill must climb, the ministry itself, which includes in its membership, aside from the prime minister, two other ministers without portfolio who must have had previous official experience, known as consulta-

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tive ministers;[25] secondly, a group of civil servants in each of three departments—Social Affairs, Finance, and particularly Justice—whose function it is to do the technical work of final preparation, and who are associated with undersecretaries who administratively supervise the preparation of matters to come before the respective ministers; thirdly, departmental *ad hoc* committees drawn in part from the technical draftsmen just mentioned; and fourthly, a group of administrative investigating committees appointed *ad hoc* to study special subjects. These agencies are engaged in deliberation and "paper work". The Swedish governmental system glorifies the printed word. The key word to describe the entire process is "preparation", *beredning.* In both the administration and the courts the process of preparation of reports, propositions and cases long antedates the constitution of 1809, but that document specifically provides that "Before matters are presented to the king in council they shall be prepared by the member presenting them, who shall gather for this purpose necessary information from the proper administrative offices."[26] Ministers turn primarily to the two types of administrative committees.

Two aspects are apparent in this organization and process known as "preparation".[27] The first part is the "investigation" by one of the specially appointed administrative committees, *kommitté,* nominally attached to one of the departments; the second is "preparation" proper, by a departmental

[25] Constitution, Article 6.

[26] Article 10.

[27] Most of what has been written about the process is historical, and present practices, since 1905, are usually not mentioned. Gunnar Hesslén, *Det Svenska Kommittéeväsendet intill År 1905* (Uppsala, 1927), is directly in point for the early development of the "investigative" aspect. Gunnar Heckscher, *Konung och Statsråd I 1809 Års Författning* (Uppsala, 1933), and Leif Kihlberg, *Den Svenska Ministrären intill 1905* (Uppsala, 1922), deal with preparatory processes incidentally to the history of the ministry. Late eighteenth-century practice is described by Stefan Söderlind, "Om Allmänna Beredningens Tillkomst", in *Statsvetenskaplig Tidskrift,* 1938, pp. 209-251. For recent practice, the first satisfactory treatment is that of Eli Heckscher, under the name of "Junius", in *Svensk Tidskrift,* 1922, pp. 249-260, "Hur Sverige Regeras (Kungl. Maj:t)". Professor Heckscher had an extraordinarily good opportunity for understanding the system from the inside. See also Herlitz, *Om Lagstiftning,* pp. 267-275.

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committee. Both agencies are served by the technical draftsmen and secretaries. The first, the temporary administrative commissions, are not unlike the British royal commissions. Each is appointed on the initiative either of the ministry or by parliamentary motion to study and report upon some special matter, and is composed of three or more members who may all be permanent administrative officers upon whom this comes as a special assignment, or partly of parliamentary members and perhaps persons from private or university life—often all three. These commissions may be said to provide a common meeting ground on public policy for officials, politicians, specialists and prominent persons more or less representative of special interests. Often, in addition to the report, called *utredning,* the terms of the appointment call for the draft of a bill to fit the conclusions. In any case, these reports have not only the temporary value for immediate policy needs, but, because they are published systematically and because many of them possess the qualities of scientific treatises, they form a background of information for any future readjustments and are regularly perused by scholar and official alike.[28] Recently there have been from fifty to seventy of these reports annually. Some people feel that this number is much too great, that too many insignificant matters go through this expensive and slow procedure, or that the reports come to naught and have to be done over within a few years. Some think, too, that the process is even applied to too many urgent matters on which some

[28] The reports are published according to the departments to which the commissions are directly or nominally attached, and are serially numbered by years, under the general title of *Statens Offentliga Utredningar.* The early reports of 1938 in pages were: No. 1—107; No. 2—303; No. 10—741; No. 11—64. Probably the most important recent report is that of a commission technically called *Process Lagberedning,* which has worked for several years on the reform of the two-century-old judicial procedure. The report was rendered in December 1938, and the expectation was that parliament would pass the proposed code during the session of 1939. In the meantime it has been distributed to courts and lawyers for study before the further process is undertaken of making it definitely a governmental proposition. *Statens Offentliga Utredningar* 1938: 43 (part I, the proposed law text), 44 (*Motiv,* or findings)—150 and 619 pages, respectively.

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step should be taken at once and readjustments made on the basis of subsequent experience, rather than attempting to have the proposal foolproof to start with.

Preparation proper is the same sort of institution, but within a department, and is pointed in its procedure directly toward the decision of a minister as head of a department, and especially of the ministry as a whole. The process finds no very definite legal basis, is quite plastic, and assumes somewhat different form as different types of subjects are handled. It is here that the technical staff makes its greatest contribution. This departmental committee holds meeting after meeting until finally the matter is ready for more formal action. The committee then is joined by the minister and one or both of the consultative ministers, bureau chiefs, and experts, and all participate in a deliberate procedure that at last results in a definite bill, a report, and a protocol showing the substance of the views of each. If the matter is important enough, it involves the whole ministry, and much of the ministry's time is taken up with just such meetings, until the ministry is ready to support the matter at its formal meeting in the presence of the king.[29] In the preliminary meetings no minutes are kept nor public hearings held, but the attempt throughout the process is to get every angle of a question before the committee or the ministry so as to anticipate and draw the teeth of later opposition. Hence, any experts or special-interest personages invited in actually participate in the deliberations as well as present their views.

Sweden has in a small measure achieved a sort of functional representation on the administrative side of lawmaking through preparatory committee appointments. The government is anxious to appoint those persons whose absence could be used as a basis for parliamentary criticism when the government

[29] These meetings for general preparation, *allmänna beredning*, unknown to the formal law, are related in their origin to the attempt of the ministry, before parliamentary responsibility came about, to exercise some initiative through coming to an agreement before the council meeting and facing the king as a unit. For practices before 1860, see Gunnar Heckscher, *Konung och Statsråd I 1809 Års Författning.*

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introduces its proposition and bill.[30] One might suggest also that considerable uniformity in administrative standards is achieved by the fact that the two consultative ministers, having had administrative experience, and dividing their time among the departments for these preparations, represent the point of view of administrative jurisprudence. It has been claimed for them that they often have considerably more influence than the department heads themselves.[31] Moreover, and as noted before, both statutes and major ordinances pass through the same procedure.

One distinction does exist, however, between the preparation of laws and ordinances. Civil and criminal laws, indefinite as that expression may be under modern conditions, must be submitted by the ministry to a law council for a preliminary advisory opinion prior to being laid before parliament. The law council, *lagrådet,* is composed of four judicial officers selected for relatively short terms by the Supreme Court and the high Administrative Court from their own memberships—three from the former and one from the latter.[32] It apparently was the intention of the constitution drafters that this council should merely render its opinion on how the proposal, if adopted, would fit in with the general constitutional and legal structure. Today, however, because of the intricacy of many of the questions submitted, and the fear of the charge of opinions based on political views, some demand has been voiced for a restriction of the council to purely legal points.[33] By the time a government proposition reaches parliament, however, it has been gone over minutely again and again, even

[30] For instance, in 1938, the technical committee known as *lagberedning* had associated with them for the purpose of drafting a revision of corporation law, a lawyer, two business men, one patent-office official, one accountant, and an economist. *Sveriges Statskalender*, 1938, sec. 72, and Allan Ingelson, "*Officiellt*" (Stockholm, 1938), pp. 100-101.

[31] *Svensk Tidskrift*, 1922, p. 251.

[32] Constitution, Articles 21, 87, par. 1. R. Malmgren, *Sveriges Grundlagar*, B, 33-34. Ingelson, "*Officiellt*", pp. 25-27.

[33] Dahlberg and Tingsten, *Svensk Politisk Uppslags Bok*, p. 230. See especially Herlitz, *Om Lagstiftning*, pp. 280 *et seq.*, for discussion of the jurisdiction of this council.

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though it may be one proposed originally by parliamentary motion. Parliamentary committees, *utskott,* receive not only the drafted bill, but the protocols containing the recommendations of members of the administrative committees, *kommitté,* the views of department heads and consultative ministers, and finally the opinion of the law council. About all that remains for parliamentary committees to do in preparing for resolutions in plenary meetings of the chambers is to examine policies, compare the prepared information and opinions, and make their own recommendation. They do not, and need not, hold investigative hearings themselves, and ministers, being excluded, are not heard. These parliamentary committees have not hesitated, especially prior to the development of a majority party in parliament, to alter details or even major propositions; but, since they often call upon the same draftsmen who worked on the matter from the start, some degree of symmetry usually results.

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INTERNATIONAL ORGANIZATION AND THE INTERNATIONAL CHAMBER OF COMMERCE

JUST as the working government of a nation cannot be fully understood without knowing something about its relations to the people themselves and their nongovernmental groupings and tendencies, so government on the international plane can be understood only if its relations to the extragovernmental life of society are considered. These relations may seem somewhat more remote and complex in international than in national affairs, since international governmental acts directly affect but the participating governments, not private individuals or groups. But emphasis on the ultimate concern of the latter in, and their reacting influence on, such international acts may be especially appropriate at a time of official governmental coolness, hostility or impotence toward international organization.

A more realistic picture of these relations between government and society on the international plane can be gained only through studying particular instances of such relations, instead of leaving their definition to vague generalities and easy euphemisms. Case studies of this kind may also help to clarify lines of possible development in international organization apart from direct action by the national governments themselves. Such clarification may contribute to dispel one-sided fatalism as to the aims and results of governmental coöperation between nations, without relapsing into indiscriminate trust in the force of world public opinion and the unorganized good will of society. With this in mind, we shall consider the relations of international official agencies with one particular group of society that has been internationally organized outside of the framework of governments, namely, the International Chamber of Commerce. We shall examine the administrative

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means used to maintain its relations with official bodies and the influence exercised through such relations. From these observations, we shall venture some general conclusions on the place and the possibilities of a nongovernmental group in international organization.

I

As regards the means and methods of coöperation between the International Chamber of Commerce and international governmental agencies, three forms or stages may be distinguished. One consists of personal contacts, informal or formalized, of the members of the one body with members or representatives of the other. The second consists in the exchange of definite information or of critical observations on and suggestions for the work of each other. The third is the taking of action by either side based on the other's initiative or preparation.

The establishment of personal contacts is a very frequent device of coöperation between the International Chamber and official international bodies. This is only natural in view of the representative character and the outstanding personalities of the leading men of the Chamber. Like all other contacts made by the Chamber, it is strengthened by the manner in which the work of these men is specialized and coördinated in the Chamber's permanent organization. Indeed, the Chamber has established, below its Council and the smaller Executive Committee, a great number of other special committees on a permanent basis, most of them covering a special field such as finance, industry and trade, transport, arbitration, and general economic restoration.[1] Besides, it has organized its members in each country in a national committee, which corresponds with international headquarters, and at the latter it maintains a permanent administrative staff.

The personal qualities of the Chamber's leaders have led frequently to the appointment of the same men to official inter-

[1] For a comprehensive synopsis of the organization of the International Chamber and its component committees, see *Journal of the International Chamber of Commerce* (*J.I.C.C.*), 1926, No. 9, pp. 8-11.

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national bodies or diplomatic conferences. For example, the Preparatory Committee of the International Economic Conference of 1927, which consisted, not of representatives of governments or organizations, but of persons chosen as experts, included several members who also occupied important positions in the Chamber.[2]

Very often, however, leading personages of the Chamber have been appointed, as such, to membership in official international agencies, or the Chamber itself has been invited to appoint delegates to official international meetings. This has become an established practice with the League of Nations in fields where it deems the Chamber, or similarly other organizations outside of the League, to have a particular interest or special expert knowledge. In the Communications and Transit Organization, representatives of the Chamber regularly attend the comprehensive Advisory and Technical Committee[3] as well as its subordinate permanent committees.[4] The Chamber was also represented at some of the Organization's temporary committees of inquiry.[5] In the Economic Organization of the League, the Chamber was represented at the Economic Consultative Committee, which was formed in 1927 to follow the application of recommendations of the International Economic Conference.[6] In addition, the Economic

[2] *J.I.C.C.*, 1927, No. 10, p. 3; No. 12, p. 3. *Cf.* the official list of members in: Preparatory Committee for the International Economic Conference, Reports, *League of Nations Official Journal* (*O.J.*), 1926, p. 816; 1927, p. 273.

[3] Advisory and Technical Committee, Minutes of the Sessions, e. g., *League of Nations Publication* (*P.*), 1932, No. VIII 4, p. 14; 1934, No. VIII 2, p. 11; 1935, No. VIII 8, p. 11; 1937, No. VIII 5, p. 11. *Cf.* also A. Pirelli, "Organization and Responsibilities of the International Chamber" (Presidential Statement), *J.I.C.C.*, 1928, No. 16, p. 17.

[4] *J.I.C.C.*, 1928, No. 18, pp. 24-25. Permanent Committee on Road Traffic, Reports, *P.*, 1930, No. VIII 7; 1933, No. VIII 2; 1937, No. VIII 2.

[5] Committee of Enquiry into the Reform of the Calendar, Minutes of the 1st and 2nd Sessions, *P.*, 1924, No. VIII 6; 1935, No. VIII 9. Fourth General Conference on Communications and Transit, Preparatory Documents, *P.*, 1931, No. VIII 12 (I), Sec. I. Special Committee of Enquiry on the Negotiability of Railway Transport Documents, Report, *P.*, No. VIII 23, p. 1.

[6] Assembly, Resolution Adopted by the Eighth Ordinary Session, *O.J.*, 1927, p. 1481. Council, Minutes of the 48th Session, *O.J.*, 1928, p. 171. Economic Consultative Committee, Reports (appendices), *O.J.*, 1928, p. 1129; 1929, p. 1257.

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Committee itself admitted representatives of the Chamber to discuss and report on certain questions.[7] Similarly, in the Financial Organization, Chamber delegates in 1926 and 1927 attended the Committee of Experts on Double Taxation and Tax Evasion.[8] Later, when a separate Fiscal Committee was established by the League to continue investigations on the same subjects, a representative of the Chamber served as an advisory member.[9] Finally, in 1933, the Chamber on its part appointed a permanent representative at Geneva to deal with the League.[10]

The League also initiated invitation of the Chamber to international governmental conferences. Again, such invitations were extended to the Chamber as well as to other comparable organizations, both official and private. Regularly, representation of the Chamber was requested expressly in an advisory capacity (*ad audiendum*) only. The first conference convened by the League at which a Chamber delegation participated in this manner was the International Financial Conference of Brussels in 1920.[11] Since then, a great many conferences under League auspices have been attended by the Chamber's representatives in an advisory capacity.[12] At the

[7] Economic Committee, Reports, *O.J.*, 1928, pp. 505, 508, 1004; 1929, pp. 629, 631.

[8] Experts on Double Taxation and Tax Evasion, Report, *O.J.*, 1926, pp. 922, 923; Committee of Experts, Report, *O.J.*, 1927, p. 516.

[9] Council, Minutes of the 55th Session, *O.J.*, 1929, p. 1013. Fiscal Committee, Reports, *O.J.*, 1930, pp. 560, 1579; 1931, p. 2385.

[10] *World Trade* (periodical continuing the *J.I.C.C.* since 1929), 1933, Vol. 5, No. 3, p. 2.

[11] International Financial Conference, List of Delegates and Officers, *O.J.*, 1920, p. 440. *J.I.C.C.*, 1924, No. 1, p. 1.

[12] Second General Conference on Communications and Transit, Final Act, *O.J.*, 1924, p. 312; *J.I.C.C.*, 1924, No. 1, pp. 1-2; A. Pirelli, in *J.I.C.C.*, 1928, No. 16, p. 17; Fourth General Conference, Final Act, *O.J.*, 1932, p. 248. International Conference on Customs and Other Similar Formalities, Final Act, *O.J.*, 1923, p. 1612; *cf. J.I.C.C.*, 1924, No. 1, p. 2. Passport Conference, Final Act, *O.J.*, 1926, pp. 1088, 1093. International Conference for the Abolition of Import and Export Prohibitions and Restrictions, Final Act, *O.J.*, 1927, p. 1694. General Meeting of Government Experts, Report (appendix), *O.J.*, 1929, p. 227 (regarding double taxation). International Conference Relating to Economic Statistics, Final Act, *O.J.*, 1929, p. 460; President of the Con-

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International Economic Conference at Geneva in 1927, when delegates appointed by the International Chamber of Commerce attended on an equal footing with the delegates appointed by governments, all delegates served as independent experts and not as the representatives of any government or organization with full powers to conclude conventions.[13] At the London Monetary and Economic Conference in 1933, on the other hand, the Chamber was only invited to send representatives who would be available for additional information.[14]

Similarly, the Chamber was invited to be represented in an advisory capacity at several conferences of official organizations outside of the League, such as the International Union for Protection of Industrial Property and the Telegraph Union.[15] The Hague Conference on Air Mails in 1927, which was convened by the Universal Postal Union, was attended by the Chamber's delegates on an equal footing with the representatives of the administrations.[16]

These personal contacts, through the attendance of Chamber delegates at the consultative agencies of the League or in an advisory capacity at international conferences, have been complemented by the participation of representatives of the League and other official international bodies in the work of the Chamber. As regards the League, it has been represented at

ference, Report, *O.J.*, 1929, p. 583. Council, Minutes of the 55th Session, *O.J.*, 1929, p. 1014; *World Trade*, 1930, Vol. 2, p. 8 (regarding the Conference on the Treatment of Foreigners, 1929). International Conference for Unification of Laws on Bills of Exchange, Promissory Notes and Cheques, Final Acts (First and Second Sessions), *O.J.*, 1930, p. 1032; 1931, p. 858.

[13] G. Stresemann (German representative at the Council), International Economic Conference, Report (with Resolution adopted by the Council), *O.J.*, 1927, pp. 536-537; A. Pirelli, "The Conference and the Chamber", *J.I.C.C.*, 1927, No. 14, p. 5. *Cf.* Council, Minutes of the 43rd Session, *O.J.*, 1927, pp. 145, 147; Preparatory Committee for the International Economic Conference, Report, *O.J.*, 1927, p. 268.

[14] Council, Minutes of the 70th Session, *O.J.*, 1933, pp. 196, 197. *Cf.* A. A. Mariy, *La Chambre de Commerce Internationale* (1934), p. 155.

[15] *J.I.C.C.*, 1925, No. 7, p. 10. *World Trade*, 1932, Vol. 4, No. 9, p. 5; 1937, Vol. 9, No. 11, p. 5.

[16] Pirelli, in *J.I.C.C.*, 1928, No. 16, p. 18. M. Wronsky, "The Aeroplane Is the Postman of the Future", *World Trade*, 1934, Vol. 6, No. 7, pp. 3-5.

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meetings of the Chamber not only by delegates of its consultative organizations or members of their staffs, as, for instance, of the Advisory and Technical Committee on Communications and Transit;[17] it has also on occasion been represented by officials of the Secretariat, as at the session of the Chamber's Committee on Trade Barriers in 1926 when these representatives took part in the discussion about the approval of the findings of the sub-committees.[18] Similarly, the League has been represented, through the Secretariat, at the Congresses of the International Chamber.[19]

Other international organizations established by governments or governmental administrations have been represented in the same way as the League at meetings of the Chamber. Thus, delegates of the International Labor Office also participated in the above-mentioned discussion of the Chamber's Committee on Trade Barriers. Meetings of the various committees of the Chamber dealing with transport questions have been attended by delegates of many organizations, such as the International Railway Union and the International Telegraph Union.[20] As regards the Congresses of the Chamber, participation of official international organizations has followed the beginning made by the League in 1921 at the first Congress in London and since extended to a considerable number of such organizations.

II

Exchange of information and advice has not been confined to the opportunities of mutual personal participation in discussions. Often it has been organized on a more formal basis, so as to make it more comprehensive than occasional remarks in

[17] Pirelli, in *J.I.C.C.*, 1928, No. 16, p. 17.

[18] É. Clémentel, "Trade Barriers" (address as Chairman of the Committee), *J.I.C.C.*, 1926, No. 11, p. 3.

[19] International Chamber of Commerce, Brochures No. 18 and No. 32; *The International Chamber of Commerce* (title of periodical preceding the *J.I.C.C.*), 1925, Nos. 5-6; *J.I.C.C.*, 1927, No. 15. For a summary of the attendance of representatives of the League and other international bodies at the Chamber's Congresses, see L. Magnier, *La Chambre de Commerce Internationale* (1928), chap. iii, in particular, pp. 34-37.

[20] *J.I.C.C.*, 1928, No. 18, p. 25, and No. 19, p. 20.

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a discussion are apt to be and, at the same time, to concentrate it on specific issues. Thus, information is exchanged by the International Chamber with the Universal Postal Union and other organizations,[21] and unofficially, through the Secretariat of the League, also with the League's Economic Committee.[22] Furthermore, information is made available to the Chamber of Commerce, as well as to certain other organizations, on customs regulations and tariff duties by the Secretariat of the League and by the International Office for the Publication of Customs Tariffs at Brussels.[23] Similarly, observations have been forwarded to the Chamber on conditions of the international telephone service by the Consultative Committee on Long Distance Telephone Communications.[24]

Beyond such general exchanges of information, the Chamber has also on occasion been invited to contribute to a particular investigation undertaken by an official international body. When the Economic Committee of the League dealt with the unification of economic statistics on the basis of resolutions of the International Institute of Statistics, it consulted the Chamber and certain other organizations and obtained their general approval on those resolutions.[25] Similarly, in the Financial Section of the League, the Technical Experts on Double Taxation and Fiscal Evasion, in gathering information on the subject, communicated with the Chamber, which had previously investigated the problems of double taxation.[26] Again, when the Fiscal Committee of the League decided to make an inquiry into the tax methods of many nations with regard to national and foreign enterprises, the director of research was charged to collaborate not only with members of the

[21] *Ibid.*, No. 18, p. 25 (a comprehensive statement).

[22] Economic Committee, Report, *O.J.*, 1925, p. 1509.

[23] International Conference on Customs and Other Similar Formalities, Final Act, Art. 1, *O.J.*, 1923, p. 1602. That this recommendation has been carried out is implied in the discussion of the League's Economic Committee on admitting other organizations to the same benefit: Economic Committee, Report, *O.J.*, 1924, p. 1473.

[24] *J.I.C.C.*, 1928, No. 19, p. 20.

[25] Economic Committee, Report, *O.J.*, 1924, p. 553.

[26] Financial Committee, Report, *O.J.*, 1925, p. 968.

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Committee who represented their national taxation authorities, but also with the International Chamber, which ascertained the views of the taxpayers through its national committees.[27]

Not infrequently, the Chamber has on its own initiative undertaken to present its views and materials on a particular problem to the appropriate official international agency with suggestions for action. Thus, it submitted proposals, concerning the negotiability of transport documents and the removal of barriers to maritime navigation, to the Advisory and Technical Committee when the latter discussed the agenda of the Fourth General Conference on Communications and Transit.[28] To the Universal Postal Union, the Chamber submitted a report on barriers to air traffic, prior to the international agreement on this subject in 1927, and later another report on postal prohibitions.[29] Similarly, it presented reports on technical service improvements, rates, and the liability of administrations to the Telegraph Union.[30]

In several instances, the Chamber had an opportunity of offering information and suggestions in a more advanced stage of international coöperation on a particular subject, namely, the drafting of international agreements or regulations. Resolutions on the protection of industrial property, which the Chamber adopted at its Rome Congress in 1923, were submitted to the 1924 Conference of Governmental Experts, who, on the basis of drafts prepared by the Economic Committee of the League, were to draw up amendments to the pre-war Conventions on Protection of Industrial Property and Unfair Competition.[31] Resolutions of the Chamber's Stockholm Congress

[27] Fiscal Committee, Report, *O.J.*, 1933, p. 1036; *World Trade*, 1931, Vol. 3, p. 192.

[28] Advisory and Technical Committee, Minutes, *P.*, 1931, No. VIII 14, pp. 26-29; Special Committee of Inquiry on the Negotiability of Railway Transport Documents, Report, *P.*, 1931, No. VIII 23, p. 2.

[29] *J.I.C.C.*, 1928, No. 19, p. 21; M. Wronsky, in *World Trade*, 1934, Vol. 6, No. 7, p. 3.

[30] Chambre de Commerce Internationale, Rapport, in *Documents de la Conférence Télégraphique Internationale de Madrid* (1933), Vol. 1, p. 756. See also *J.I.C.C.*, 1928, No. 19, p. 21.

[31] *J.I.C.C.*, 1925, No. 3, p. 1.

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in 1927 on double taxation were submitted to the General Meeting of Government Experts by the delegates of the Chamber in 1928.[32] Occasionally, the Chamber has been given an opportunity to make known its views on draft agreements after their preparation by the official body concerned. Thus, the tentative draft agreement, prepared by the Economic Committee of the League, prior to the Conference held in 1927, on abolition of import and export prohibitions and restrictions, was transmitted to the Chamber and a few other organizations, as well as to the national governments; the observations sent in reply were subsequently examined by the Committee.[33] A similar course was followed by the International Railway Union when it communicated its draft uniform nomenclature of goods to the Chamber; the latter circulated it among its national committees for observations and presented the results of this inquiry to the Union in 1928.[34]

Even at the stage of concluding agreements and passing resolutions, at diplomatic conferences or within the framework of permanent international organizations, the Chamber has repeatedly presented its data and viewpoints. To the International Economic Conference in 1927, it submitted the report of its Committee on Trade Barriers together with two draft conventions.[35] It also sent a report to the Conference on Economic Statistics in 1928.[36] Again, at the convocation of the London Monetary and Economic Conference of 1933 by the League, the Chamber was asked to give its opinion in writing on the questions on the agenda and submitted a report accordingly.[37] In 1934, it prepared for the Cairo Congress of the

[32] F. Koppe, "Double Taxation", *World Trade*, 1930, Vol. 2, p. 340.

[33] Economic Committee, Report, *O.J.*, 1926, p. 565; Pirelli, in *J.I.C.C.*, 1928, No. 16, p. 19.

[34] H. O. Mance, "The Rail Transport Committee of the International Chamber", *J.I.C.C.*, 1928, No. 17, p. 4; also *J.I.C.C.*, 1928, No. 18, pp. 46-48, and No. 19, p. 19.

[35] Preparatory Committee for the International Economic Conference, Report, *O.J.*, 1927, p. 270; *J.I.C.C.*, 1927, No. 12, p. 3; Pirelli, in *J.I.C.C.*, 1928, No. 16, p. 19; *World Trade*, 1929, Vol. 1, p. 302.

[36] *World Trade*, 1929, Vol. 1, p. 198.

[37] Council, Minutes of the 70th Session, *O.J.*, 1933, pp. 196, 197. *Cf.* A. A. Mariy, *op. cit.*, p. 155.

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Universal Postal Union a report dealing with postage rates, postal regulations, liability of postal administrations, and other matters.[38]

III

These examples of detailed recommendations by the Chamber lead us to a consideration of instances when action in a certain direction has been taken by the official bodies following the Chamber's initiative. Two important cases of such action by the League, following the initiative of the Chamber, may be found among resolutions of the Assembly concerning commercial arbitration. The opening for signature of the Protocol on Commercial Arbitration by the Assembly in 1923,[39] providing for international recognition of the binding force of arbitration agreements (*clauses compromissoires*), followed a campaign of the Chamber against the obstacles to international arbitration which resulted from the invalidity of arbitration agreements under many national laws.[40] Again, the Chamber took the initiative in recommending the mutual recognition by national courts of arbitration awards pronounced abroad,[41] which was finally embodied in the Convention on the Execution of Foreign Arbitral Awards, opened for signature by the Assembly in 1927.[42]

Other examples of League action, conforming to initiative taken by the Chamber, are to be found in the achievements of conferences convened by the League and also in the work of League committees in connection with the preparation or application of conference resolutions. Thus, the 1923 Conference on Customs and Other Similar Formalities recommended the

[38] *World Trade*, 1934, Vol. 6, No. 2, p. 2.

[39] Assembly, Recommendations Adopted by the Fourth Session, No. IV 4 (iii), *O.J.*, 1923, Special Supplement No. 11, p. 13.

[40] Provisional Economic and Financial Committee, Report (Economic Committee), *O.J.*, 1922, p. 620. H. Dietler, *Der Schiedsgerichtshof der Internationalen Handelskammer* (1935), p. 8.

[41] Dietler, *op. cit.*, pp. 13-14. As an expression of the initial skepticism on the part of the League, see Provisional Economic and Financial Committee, Report, *O.J.*, 1922, p. 1404.

[42] Assembly, Resolutions and Recommendations Adopted during its Eighth Session, No. IV 6, *O.J.*, 1927, Special Supplement No. 53, p. 15.

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Chamber's schemes for circulating information on customs regulations.[43] More concretely, suggestions of the Chamber were followed by the International Economic Conference in 1927. To be sure, the free trade program of the Chamber's report on trade barriers went much farther than the Conference was ready to follow in its resolutions.[44] But the Conference adopted the idea, broached by the Chamber's draft conventions on the subject, of the desirability of an international convention on the treatment of foreigners. Its recommendation for the preparation of such a convention was given effect by charging the Economic Committee of the League with this task,[45] which finally resulted in the Conference on the Treatment of Foreigners in 1929.

Meanwhile, in another field, the 1928 Convention Relating to Economic Statistics had embodied many of the Chamber's recommendations to the Conference. In particular, the Committee of Statistical Experts, which it set up, was instructed to follow the technical proposals of the Chamber in coördinating statistics in certain economic fields, and it proceeded accordingly.[46] The Conference also recommended that in future international action on economic statistics account should be taken of the scientific work of nongovernmental organizations such as the International Chamber.[47]

Of special importance has been the initiative of the Chamber in the field of double taxation. Having participated in the preparatory discussion of the League's Financial Committee on a draft convention on double taxation, the delegates of the Chamber presented the resolutions of its Congress of Stockholm to the General Meeting of Government Experts. To the satisfaction of the Chamber, many of its ideas were accepted when

[43] Final Act, Art. 3, *O.J.*, 1923, pp. 1616-1617.

[44] For a comparison of the Chamber's proposals and the resolutions of the Conference, see N. Davis and G. L. Gérard, "The Committee on Commerce", *J.I.C.C.*, 1927, No. 14, p. 9.

[45] Economic Committee, Report, *O.J.*, 1928, p. 508.

[46] President of the International Conference on Economic Statistics, Report, *O.J.*, 1929, pp. 583-585; Economic Committee, Report, *ibid.*, p. 1232; Economic Consultative Committee, Report, *ibid.*, p. 1243.

[47] Final Act, Art. 1, *ibid.*, pp. 462-465.

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the Meeting adopted model conventions on certain taxes and on administrative assistance.[48] In the Fiscal Committee, which was created at the suggestion of the General Meeting, suggestions of the Chamber for problems and courses of solution were frequently acted upon. Thus, the Committee took up the Chamber's proposals on definitions for purposes of apportionment of the profits and capital of enterprises and also on the extension of measures against double taxation to certain taxes not yet covered by the model conventions. Both were thereupon made the subjects of special investigations of the Committee, in which the Chamber was again associated. Also on the Chamber's suggestion, the Committee considered the possibility of multilateral conventions, and, notwithstanding its original skepticism in the matter, prepared tentative drafts for such conventions.[49]

The Chamber's work has also been significant in the achievements of the Conference for the Unification of Laws on Bills of Exchange. Here, the Chamber helped to pave the way to the Conference by demonstrating the need, from the standpoint of commercial interests, of greater uniformity of laws at least within the continental legal system. The preparatory work of the Economic Committee on the subject started from the assumption of this need as presented by the Chamber.[50]

A concrete proposal of the Chamber again led to an important progress in the law of international railway transport. It was the Chamber that first, together with the International Railway Union, broached the question of negotiable instruments in the international transport of goods by rail before the Advisory and Technical Committee.[51] The Fourth General

[48] *Cf.* Koppe, in *World Trade*, 1930, Vol. 2, p. 340.

[49] Fiscal Committee, Reports, *O.J.*, 1930, pp. 564, 565, 1585; 1931, pp. 2386-2389 (and appendices, pp. 2392-2399); 1933, p. 1037 (and appendix, pp. 1038-1041).

[50] Economic Committee, Report, *O.J.*, 1927, p. 584; President of the International Conference for the Unification of Laws on Bills of Exchange, Report, *O.J.*, 1930, p. 1358.

[51] Special Committee of Inquiry on the Negotiability of Railway Transport Documents, Report, *P.*, 1931, No. VIII 23, pp. 2-6; Council, Minutes of the 66th Session, *O.J.*, 1932, p. 454.

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Conference on Communications and Transit recognized the commercial utility of such negotiable documents, referring to the studies of the subject by the Chamber as well as the Economic Committee and associating the Chamber with further work in the matter.[52] Following this suggestion, the Rome Conference for the Revision of the Berne Conventions on International Railway Transport finally modified the Convention on the International Transport of Goods by Rail so as to permit the introduction of negotiable documents.[53]

Still further cases of the Chamber's initiative preceding action of officially convened international conferences can be encountered outside of the framework of the League. Most famous has become the contribution of the Chamber to bringing about the first temporary solution of the problem of German reparations to the Allied Powers. A resolution of the Rome Congress of the Chamber in 1923 first pointed to determining Germany's obligations by expert appraisal of her economic ability to pay rather than by purely political reasons.[54] In a field of more restricted and technical interest, proposals made by Chamber delegates were partly followed by the Hague Conference of the International Union for the Protection of Industrial Property in 1925.[55] Two years later, it was a suggestion of the Chamber's Air Transport Committee to convene a first conference on air mails, embodied in the Chamber's report to the Universal Postal Union, that was taken up officially by the Soviet Post Administration and through it led to the Hague Conference on Air Mails of the Union. The uniform provisions on air mail adopted at this Conference, and also the attachment of the provisions to the Postal Convention at the London Postal Congress of 1929 and their revision at the Cairo Postal Congress of 1934, all conformed to a great part to recommendations of the Chamber.[56]

[52] Fourth General Conference, Final Act, *ibid.*, p. 235.

[53] *Cf.* Council, Minutes of the 90th Session, *O.J.*, 1936, p. 61.

[54] See, e.g., *J.I.C.C.*, 1924, No. 1, p. 2.

[55] *Cf.* R. Burrell, "General Conventions of Paris" (report), in *J.I.C.C.*, 1925, No. 7, pp. 12-14.

[56] Pirelli, in *J.I.C.C.*, 1928, No. 16, pp. 17-18. *Cf.* K. W. Colegrove, *International Control of Aviation* (1930), pp. 110-112.

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IV

From these forms and effects of coöperation by official agencies with the Chamber, we may attempt to draw some conclusions as to the rôle which has been played, and which may continue to be played, in international government by a non-governmental organization such as the Chamber. It must be borne in mind, in this connection, that the Chamber represents general business interests as well as specialized expert knowledge, combining both in the membership of its committees devoted to special economic fields; at the same time, it represents international business by combining nationally organized interests, being a federation of national groups with a common headquarters organization.

The rôle in which such a group is most apt to portray itself, and which is quite readily conceded to it, is that of a medium of public opinion. In truth, such a rôle of activating public opinion, by enlightening people and informing governments on public wants and the effects of governmental action, is particularly significant when such influence is exercised on a specialized public opinion of people with definite interests. This provides a mechanism for clarifying the reactions of these people on international projects and measures; and it thus tests the value of such acts, which directly provoke response from individual governments rather than from the people.

The particular value of an organization such as the Chamber in this respect consists in the manner in which it performs its job of condensing and canalizing public opinion. Here, two features of the Chamber's work need special emphasis. First, its job of collecting and expressing opinions is done on an international level. That is to say, in its own ranks, through its national committees, it fosters an international outlook among circles otherwise quite inclined to nation-bound attitudes. Again, in its headquarters it provides a permanent organizational basis for balancing and equalizing national opinions and aspirations before presenting the Chamber's views to the outside world. In the second place, the Chamber represents opinions of a specialized character. That is to say, the views which it repro-

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duces are those of people with clearly defined interests and with intimate practical knowledge within the scope of these interests. Moreover, they are collected not merely in the pronouncements of huge congresses but in the discussions of committees which are composed both of business men with more special interests and of expert advisers, and which specialize on some subject within the broadly limited field of common interest.

Both these features place the work of the International Chamber on a level different from that of many other self-styled representatives of public opinion. They help to explain the reliance of international agencies on its suggestions, in spite of their private nature, and the appeals which have been addressed to it for help in applying international acts. They also cast some light on the fact that the Chamber's stand has sometimes foreshadowed a definite trend of public opinion at large, most clearly recognizable in the instance of the Dawes plan for German reparations.

However, the Chamber's part in international affairs is much more than that of a rather effective interpreter to a specialized section of public opinion of the results of study and consultation. For it represents interests which, after all, are often more limited and more outspoken than would befit a mere clarification and registration of views of the public. At the same time, it harbors a body of expert knowledge much deeper and more elaborate than the ideas and experiences that may be needed to form opinions of the public, even of a public of specialized outlook.

The limitation and the natural partiality of the interests represented by the Chamber render its influence both narrower and stronger than the moral force and the testing value of general public opinion. The Chamber does not merely react on given situations or suggest a general course of action in what is felt to be the general interest. It concentrates on definite measures which are of concern to the particular group it represents, and it tries to mobilize their collective private influence to bring those measures about. In other words, in its dealings with official international agencies it functions as what is known, in domestic government, as a lobby: speaking for

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limited group interests, it pushes measures to satisfy them. This applies not only to the stage of political decision on the principles of governmental action but also to that of administrative application.

In both fields, the lobby function of the Chamber is buttressed by the influence and breadth of its membership and by the personal eminence of its spokesmen. As a lobby, its merit is to give impulses to governmental action, while its one-sidedness may call forth complementary action by other similar lobbies. Examples of such influence of the Chamber may be seen in its initiative in the fields of commercial arbitration and of double taxation, which are of interest mainly to international traders themselves, and only indirectly to the public benefiting from increased world trade. An example of the limitation of this kind of influence is the attempt of the Chamber to destroy international trade barriers, where the collective interest of its membership has not been able to counterbalance the conflicting interests of the national groups of its members and their resulting pressure at home.

At the same time, the influence of the Chamber in international affairs is felt in many matters which hardly arouse public opinion or any more special interests. In fact, quite apart from what importance may be conceded to the interests it represents, the Chamber is turned to for advice because it possesses assembled knowledge not readily accessible and because it has organized that knowledge so as to make it available. This advisory function, indispensable to any working government, is well known to students of military and administrative technique as the function of the staff, as distinct from the deciding and executing functions of what military parlance calls the line.

To understand the importance of an organization such as the International Chamber in this field, it must be borne in mind that those special advisory bodies or staffs which in some form or other exist for this purpose within the framework of government itself are necessarily limited in the scope of their work, because they are bound up with the regular and recurrent activities of the main agencies to which they are attached.

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There is thus a constant need to draw upon outside knowledge on subjects beyond this scope of the governmental staffs themselves. Furthermore, these staffs are necessarily influenced in their work by the major political purposes they serve and the governmental attitude they embody. To counterbalance the resulting one-sidedness of their outlook and their lack of access to many sources of information, they need to check their results against the data and opinions of independent bodies. Both these needs, for expanding the field of knowledge and for checking the methods and attitudes of government, are especially great on the international plane. Here, the permanent administrative apparatus is less elaborate, and it has to be more delicate in paying regard to multifarious national policies. Thus, in international government an outside organization such as the Chamber can perform a service which is no less significant because it is little advertised and little noticed.

That the Chamber has in fact performed this particular kind of service appears, for instance, in the regard paid by the Customs Formalities Conference to its schemes for dissemination of knowledge on customs matters; in its long and intimate association with the preparation of a convention on the treatment of foreigners; in the official acceptance of its technical proposals on economic statistics in certain fields; in its contribution to the official investigations into special problems of double taxation; and in its demonstration of the need for new laws concerning bills of exchange, negotiable rail transport documents, and air mails. In all these cases it is a special study which the Chamber submitted or with which it was associated, not merely a general plea for the consideration of certain interests; and in some cases this study was of an entirely technical character, as in economic statistics or double taxation.

The prerequisite of the Chamber's influence through mere advice, to be sure, is its internal set-up. This permits it to organize the experience of its members in permanent special committees, dealing with the particular fields of commercial activity with which each member is conversant, and to supplement this work by preparation and coördination through the administrative staff at the Chamber's headquarters. Thus, the

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Chamber has been able to send as its delegates to official meetings experts in each field, to submit reports drawn up by its special committees, to maintain connections, personal or through exchange of information, between these committees and official bodies, and to circularize the national committees on official requests through its headquarters staff. Backed by this organization of expert knowledge, even the emanations of its Congresses in certain special matters, as in double taxation, have received such attention and scrutiny by governmental bodies as are rarely accorded these collective private utterances.

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THE IMPORT OF THEORY IN UNEMPLOYMENT COMPENSATION

IN earlier articles[1] the writer has stated that the development of unemployment compensation has been governed more by immediate practical issues than by consistent theoretical conceptions of the nature and purpose of the legislation. These issues have been of a type familiar to those engaged in the furthering and administration of social legislation. Until 1930, it was essential, if unemployment compensation was even to secure a hearing, to minimize its resemblance to European systems that were held to disburse "doles" after the fashion of relief. For the next five years, the reluctance of the states to act independently was an equally important factor, since no state would place its employers at a competitive disadvantage by taxing them when employers in other states were not taxed. The Social Security Act of 1935 settled this issue by levying a tax on employers' payrolls in all states and providing for a credit against the tax up to ninety per cent, if the employers also contributed under a state unemployment compensation act. Within two years every state had established the necessary system. Concurrently, the issue of the administerability of the laws arose. Could the state payroll taxes be efficiently collected and benefit payments efficiently computed and distributed under the administrative procedures that were based upon the given legal provisions? In 1936 and 1937, the administrative problems of tax collection led to amendments that affected the form of the legislation substantially. In 1938 and 1939, the administrative problems raised by unemployment benefit payment resulted in "simplification" of the benefit provisions. By 1940, however, the prime issues became "liberalization" of benefit payment and payroll-tax

[1] Malisoff, Harry, "The Emergence of Unemployment Compensation, I, II and III", POLITICAL SCIENCE QUARTERLY, June, September and December 1939.

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reduction. Both of these were stimulated by the unpredicted growth in the size of the state compensation reserve funds.

Throughout the period of the legislative action, the theory [2] of unemployment compensation was neglected. In the haste that marked the formulation and enactment of the initial state legislation, provisions were written with little regard to underlying principle. This meant that the justifications, expressed or implicit in the provisions, were not necessarily consistent with one another and did not necessarily constitute a socially or economically desirable principle. The amendments of the last few years have not clarified this theoretical situation. New justifications of a practical sort have been introduced and have reverberated upon and modified the underlying principles. But consistent theories are not produced by such random processes.

The intention of this paper is to raise the question whether the legislation should not be influenced by a theory of unemployment compensation as well as by the practical matters that have so far been the chief inspiration for change. In other words, does not a satisfactory development of unemployment compensation entail more than a succession of amendments designed to improve mechanical operation? It may also be necessary to evolve a body of principle or doctrine that is not subject to seasonal variation, though, of course, not immutable in the long run. Without such a background, we remain at the mercy of the continual flow of immediate, practical issues. We cannot appraise them except on their own merits—on the basis of their own easily exaggerated importance.

The leading issues of 1940 illustrate the need for a theoretical background in determining the validity and worth of proposed amendments. One of the most important decisions confronting our legislators concerns the "liberalization" of

[2] It will be helpful to define the terminology employed in this paper. By theory, we mean the discussion of the principles of unemployment compensation as a whole or of its provisions separately. The principle of a provision is the set of justifications of all the provision's parts, while a justification is the social or economic effect that is the avowed aim of any part. For an example of such justifications, see *ibid.*, December 1939, p. 578, n. 120.

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unemployment benefits. Contemplating the size of the reserve funds, the Social Security Board, the American Federation of Labor and the Congress of Industrial Organizations have come to favor liberalizing benefit payments through elevation of existing benefit rates.[3] Board officials now maintain that the Committee on Economic Security was "too conservative" when it devised the benefit formulas of the federal model bills that served as the basis for the state legislation.[4] Yet an interesting similarity between the new liberality and the old illiberality is the absence in both cases of thoughtful analysis of the nature of solvency in unemployment compensation. We know that this subject differs from solvency in the private business or insurance world, but beyond that we have no criteria to enable us to judge whether a state system is becoming insolvent. Decreasing and even depleted funds do not necessarily mean insolvency of a public system. Of course, impregnable funds and stringent benefit formulas may have been politically wise in 1935, as they may be politically unwise today, but this is the type of criterion to avoid, if at all possible. It should be noted that the British unemployment insurance system has survived the throes of "insolvency" and that since 1934 the British Unemployment Insurance Statutory Committee has been dealing scientifically with the topic of solvency in its annual reports.[5] With both American and British experience in mind, a workable principle of solvency in unemployment compensation could be constructed and utilized in order to determine whether funds are "too large" or "too small". At present, such characterizations tend to flow from mixed feelings not entirely relevant to the purposes of the legislation.

[3] See *Fourth Annual Report of the Social Security Board* (Washington, 1940), p. 76, and Malisoff, POLITICAL SCIENCE QUARTERLY, Dec. 1939, p. 595.

[4] See Altmeyer, Arthur J., "Liberalizing Unemployment Compensation", *Social Security Bulletin*, January 1939; Levine, Louis, "The Problem of Increasing Reserves in Unemployment Compensation", in Federal Security Agency, *Employment Security Memorandum No. 5* (Washington, 1940).

[5] See the Committee's reports on the financial condition of the Unemployment Fund. Dr. Eveline M. Burns will analyze the Committee's work in a forthcoming book to be published by the Committee on Social Security of the Social Science Research Council.

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The question of liberalization, furthermore, involves the principles of benefits as well as the nature of solvency. In the proposals[6] to increase benefit rates, the present differential treatment of workers would be retained; benefit amounts would come nearer to wage levels for all, and one worker would continue to receive more than another simply because he once earned more. When the Committee on Economic Security originally decided what types of benefit formulas to adopt in its model bills, it devoted little thought to the significance of other forms of benefit, though we should remember that the Committee had no more than six months in which to think about the entire Social Security Act. However, when the practical issue of simplifying payroll reporting led in 1936 to the substitution of a new basis for computing benefits, there was again no opportunity for comprehensive review of the theory of benefits.[7] Yet as time goes on, some resources should be devoted to the examination of the various possible types of benefit. For example, greater consideration might be given to dependent's benefits now that they have been incorporated into the federal old age and survivor's insurance system. Formerly, the general antipathy to the idea dampened all discussion, but today we can at least ask that the underlying principles of benefits be sufficiently developed to enable one to see readily why dependent's benefits are or are not appropriate to unemployment compensation. If the desideratum is simply to increase total benefit payment, dependent's benefits could be as effective as inflation of the existing scales. Moreover, they would raise the questions whether nominal benefit rate increases constitute liberalization and whether benefit payment should approach closer to the wage levels of all categories of workers — highly-paid, steadily employed, seasonal, single and without dependents, etc. These questions should preferably be answered in terms of general principles

[6] An A. F. of L. bill (H. R. 7762, 76th Cong., 3d sess.) would raise benefits to 60 per cent of weekly wages, subject to a $6 minimum and a $24 maximum. A C. I. O. bill (S. 3365, 76th Cong., 3d sess.) provides for a 60 per cent rate, a $7 minimum and a $25 maximum.

[7] These changes in benefit formulas are discussed in Malisoff, POLITICAL SCIENCE QUARTERLY, December 1939, pp. 582, 586-587.

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that explain the purpose both of benefit payment as a whole and of the distribution of benefit to individual workers in particular.

In contrast to benefit liberalization, other proposals, first made in 1939, would reduce the state reserve funds by decreasing the state payroll taxes. Numerous practical difficulties stood in the way of such a solution. Under the Social Security Act, employers are taxed three per cent of payrolls but secure credit for state taxes up to 2.7 per cent; they remain eligible for so much credit even if their state tax amounts to less than 2.7 per cent, provided that the reduced tax is based on experience rating. Thus, if the states lowered employer rates because of the excessive reserve funds, the employers' federal tax credit could not be the full 2.7 per cent. It was proposed, therefore, that the Social Security Act be amended to permit such "horizontal" tax reduction by the states without loss of federal credit on the part of the employers.[8] Obviously, such an amendment would have worked havoc with the theoretical basis of unemployment compensation. If maximum state taxes under experience rating fell to two per cent and the minimum tax was 0.5 per cent, the administrators would have had to calculate experience ratings to decimal places in order to distribute them over the one and one-half per cent interval. What employer would be influenced to stabilize employment by a tax reduction of a fraction of a per cent? Matters were further complicated by the fact that the federal government was not to permit the reduction unless the state laws met minimal standards which would assure that the drop in income would not upset the benefit payment plans. While this reflected laudable concern for the preservation of the benefit-payment principle, it also meant considerable alteration of the federal-state relationship in unemployment compensation, a vital subject we shall shortly consider. As an alternative to tax reduction through federal action, schemes were worked out which adjusted the distribution of employer tax rates so that after each year of low benefit disbursement, the aggregate of tax collec-

[8] See *ibid.*, p. 598.

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tions would be automatically reduced, although each employer would continue to be rated according to his employment record.[9] This device, however, was also seen to weaken the benefit-payment principle at the same time that it garbled the experience-rating principle of unemployment compensation. The latter, we have presumed until now, has been meant to bring employment stabilization—long a sacrosanct objective, even though its relevance in unemployment insurance has been questioned. Now, with the addition of a financial objective, the theory of experience rating becomes highly complex.

The drive for tax reduction thus appeared to be as unrelated to underlying principles as the original contributory provisions. Yet we may rightfully expect so important a subject to be carefully planned according to explicit criteria of solvency and to the necessity of maintaining adequate benefit payment. In fact, a theory of contributions would also take account of the possibility that the employer tax is too high or too low, not only in respect of the available funds but also in respect of what should be allocated to employers in view of other possible sources of contributions,[10] the incidence of taxes from each source, and the contributions that the employer may be expected to make in the future, for example, for health insurance.

The third important issue of the day, and one that embraces the two already discussed, is the growing "minimal standards movement". When the horizontal tax reduction was proposed in Congress, it was accompanied by the following federal standards or requirements: the states were to be empowered to reduce taxes only if (1) their funds equalled at least one and one-half times the highest amount of contributions paid into, or benefit paid out of, the funds in the last ten years, whichever was greater, and (2) their laws provided for a waiting period of not more than two weeks, weekly benefits at the rate of fifty per cent of wages between limits of $5 and

[9] See *ibid.*, p. 593.

[10] The financing of nearly all the state systems by employer payroll taxes is attributable to the payroll tax levied by the Social Security Act since the taxes must be analogous to make the crediting arrangement feasible. The discussion of state financing, therefore, would have to take place on the federal level.

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$15 and total maximum benefits of not less than sixteen times the weekly benefit amount or one third of wages in the base period, whichever was less.[11] The proposal was then vigorously opposed by state administrators who felt that it spelled federalization of unemployment compensation,[12] and subsequently was omitted from the Social Security Act amendments of August 1939. In 1940, the American Federation of Labor and the Congress of Industrial Organizations individually sponsored measures[13] that imposed more standards than the proposal of 1939. The A. F. of L. bill, if enacted, would have resulted in the fixing of state eligibility conditions, a one-week waiting period, weekly benefits from $6 to $24, the abolition of experience rating, and the prohibition of worker contributions; horizontal tax reduction would have been permitted under severer conditions than those of the 1939 measure; a federal "re-insurance fund" would have been created in order to guarantee the continuance of benefit payment in states where reserve funds became depleted. The C. I. O. bill was along the same lines but would not have debarred merit rating.

Although these measures for federal minimal standards are unlikely to pass Congress in the near future, their implications are important. In return for settling the immediate issues of benefit liberalization or tax reduction, their sponsors are prepared to scuttle the conception of the Committee on Economic Security of a federal-state system in which the substantive provisions relating to benefits and contributions were to be left to the states and administrative supervision assigned to the federal government. If the state rôle in unemployment compensation would not be entirely subordinated to the federal

[11] "Social Security Act Amendments of 1939". House Report No. 728, 76th Congress, 1st sess., pp. 102-103.

[12] See the testimony of Waterman, Stumpf, Raushenbush in "Social Security Act Amendments". *Hearings Before the Committee on Finance*, 76th Congress, 1st sess. on H. R. 6635 (Washington, 1939); also *Third Annual Meeting of the Interstate Conference of Unemployment Compensation Agencies* (October 2-5, 1939).

[13] See footnote 5. Also "Federal Minimal Standards for Unemployment Compensation", *American Federationist*, January 1940.

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by the minimal standard bills, the existent federal-state structure would nevertheless be drastically revised in principle and in effect. It may be possible, of course, that such a revision is a consummation devoutly to be wished, and that those who continue to feel that the Committee on Economic Security was wrong in recommending a tax-credit system rather than a national or a grants-in-aid system will not regret such a change. But in this paper we are not interested primarily in the errors that may have been made; we are concerned with the way in which the errors are made. Errors in unemployment compensation seem closely related to subservience to practical issues. Whether the federal-state relationship should be revolutionized or not, the present-day reasons for change are highly practical and but slightly theoretical. In the writer's opinion, the theoretical value of the idea of state experimentation, much emphasized by the Committee on Economic Security in 1934, is dwindling today. The moral appears to be that easily found justifications are easily lost. In other words, we should be apprehensive over the introduction of minimal standards without further and more deliberate discussion of the subject.

Even if the decision were made to change the federal-state relationship through minimal standards, there would still be the question of the nature of the standards. Federal standards not only would revise governmental rôles but also would have a bearing on the problem of developing the principles of the substantive provisions of unemployment compensation. The standards proposed recently display little concern for underlying principles of benefits. In a sense they are nothing but the federal draft bills of 1935-1937 made compulsory on the states. The benefit provisions of these bills were at least recognized to be merely "suggestive", even though the states copied them. It remained legally possible for the states to develop other and perhaps more satisfactory types of provisions. If the draft-bill rates were inflated and vested with the force of national law, the prevailing type of formula might secure an unwarranted credence. There is no little doubt as to the desirability of a standard, rigid formula in view of the

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differing state wage structures and the differing abilities of the states to maintain benefit payment according to a prescribed scale. Some state funds might be exhausted rapidly by benefit rates that others could afford to maintain. The question of a federal reinsurance fund to sustain payment in the former states would then be raised, and automatically also the problems of the financing of a federal fund, its effect on federal-state relationships, and the reaction of the states not needing such reinsurance subsidies. While the movement for minimal standards should not be impeded merely by the multiplicity of questions that can be adduced, it would be self-defeating if based on a policy of acting first and reflecting later. Such a policy may have been justifiable when the Committee on Economic Security sought to overcome the reluctance of the states to adopt unemployment compensation, but it is by no means a judicious permanent policy. After some preliminary pains have been taken to establish the desirable principles of minimal standards, the various questions will probably be answered with relative ease, and action could be won quickly enough.

In asking for greater consideration of the theoretical aspects of unemployment compensation, the writer is aware that he has not formulated the necessary principles. That task is too great for any individual. It is the proper function of a central and authoritative body to formulate the principles governing the various provisions of the legislation in the light of their individual and mutual purposes and of their relationship to the governmental relief and works programs.[14] The Social Security Board, which is concerned with other phases of social security besides unemployment compensation and which is proximate to the relief agencies, may appear in a favorable position to carry on such work. The Board itself has never given evidence

[14] Although allowances for the emergency relief programs inherited from the 'thirties would be difficult in view of their variability and increasingly uncertain tenure, this problem would be simplified, as it becomes clearer what portion of the programs may be regarded as permanently installed. If the nature of relief remains unsettled, unemployment compensation theoreticians would have to examine the subject, for unemployment compensation is only one phase of the attack on the unemployment problem and is more dependent upon, than independent of, the other phases.

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of any intention to arrive at decisive conclusions concerning unemployment compensation and to try to influence the states accordingly. Such action on the part of a federal administrative body would be unusual, and perhaps this is one reason why Senator Wagner has introduced a resolution [15] to create an Advisory Council on Employment Security. This council, appointed by congressional committees and assisted by the Social Security Board, would study unemployment compensation and its coördination with relief and file recommendations by January 1, 1942. As another possibility, a permanent federal advisory council might also be considered. Conceding that such a proposal would require much cautious elaboration to be at all practicable, it is submitted on the basis of the writer's feeling that continuous rather than occasional review is necessary if a purposive development is ever to replace the seeming inconsequential drift of the legislation. But no new or existing body could be of much avail if its members were not aware that the development of unemployment compensation requires a philosophical as well as a practical approach.

HARRY MALISOFF

NEW YORK CITY

[15] S. Con. Res. No. 34, 76th Cong., 3d sess.

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REVIEWS

The Story of the Political Philosophers. By GEORGE CATLIN. New York and London, McGraw-Hill Book Company, Inc., 1939. —xvii, 802 pp. $5.00.

Mr. Catlin's latest work defies classification. As its author points out, it is not a textbook, though it comes to the reviewer in a textbook edition. Nor is it a presentation for the general public; it is too abstruse and too allusive to constitute popular reading. Thirdly, it is not a scholarly survey for the advanced student, comparable with Professor Sabine's distinguished work; it is too dogmatically controversial for sober enlightenment. In part it appears to be a tract for the times, using the long tradition of political thought as a springboard for the author's provocative views on current political thinking. Yet much of what Catlin writes is (*pace* Madame du Deffand) simply *de l'esprit sur les politiques,* though the wit is scarcely of the Enlightenment.

Nevertheless, a number of themes, minor and major, do emerge from Catlin's analysis. Academic men in the rôle of political thinkers are uniformly condemned as midgets in the seats of the mighty. They lack knowledge of affairs, their sympathies are narrow, and, in recent times, they sacrifice truth to clarity. Secondly, Catlin, knowing better, uses the foibles and failures of private lives for indirect criticism and mockery. The extreme instance is his twice introducing comment on Rousseau's views by calling him, correctly as to fact, a petty thief.

More importantly, Catlin seems to classify political thinkers into those who accept, overtly or covertly, and those who reject, some doctrine of original sin. Aware of the difference between the Protestant and Catholic doctrines, he generally ignores it, and damns all those who are chastened by "man's first disobedience and the fruit of that forbidden tree." He feels, apparently, that the holding of the concept implies supernaturalism, betokens generally some morbid fear, and is incompatible with science. That it may be part of a wider doctrine, moderate and empirically founded, of the ambivalence of human nature, he fails completely to note.

The original sin theme is, however, part of a wider classification of political thinkers into philosophers and scientists, with a consid-

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erable number having a foot in both camps. This connects closely with Catlin's own conviction that we need, but are only beginning to develop, a *science* of politics, and that we have stood too long in the shadow of the great names of moral philosophy. Unfortunately, he uses the characterization of non-scientific to belittle moral philosophers in politics whose basic concern was the development and application of a science of norms; because they did not analyze contemporary events, systematically and in detail, they were not empirical, and were generally escapists.

The defense of science theme connects closely with another: the whole work might be characterized as an inquiry into the origins and sources of anti-intellectualist doctrine, and of opposition thereto. Catlin in large part sees intellectual history as, first, the inextricable intertwining of science and a priori speculation, and then their gradual separation. That separation made, the latter is carried to extremes, becoming either dangerous or futile in the process, while the way is opened for a romantic reaction which, starting with praise of the feeling individual, ends with totalitarian submergence of most individuals and extreme freedom for a few professional sadists. Yet science also develops, slowly and quietly; and, while Catlin would doubtless abhor the comparison, his final theme is the dialectic, Hegelian struggle between St. Augustine's two cities, reinterpreted as science and unreason, with the triumph of the former inevitable. In the long run it is *scientifically* impossible for the forces of darkness to succeed.

Thus Catlin's science of politics ends in a defense of values, and an assurance of their triumph. These values are norms, but they are norms with a purely empirical source (and justification?). They rest on the objective facts of human behavior, objectively observed and measured by a descriptive politology. There is a scheme of natural law underlying social affairs. It is composed of laws *at once* analogous to those of the physical order *and* justifying and proving the rightness of the moral judgment, now no longer a matter of pious aspiration or speculative insight, but the product of the scientist in the laboratory of social life. It is being developed by the realistic Chicago School on the one hand and by the empirical, but ethical, approach of Bertrand Russell on the other. It will be accomplished when the two are duly synthesized under the aegis of Catlin's concept of the political man as subject of a science of power.

THOMAS I. COOK.

UNIVERSITY OF WASHINGTON

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Law, the State, and the International Community. By JAMES BROWN SCOTT. New York, Columbia University Press, 1939.—2 vols. xxiv, 613; vi, 401 pp. $8.75.

There is scarcely a more untimely task, in the eyes of modern jurisprudence, than the defense of natural law. Natural law is metaphysics, and metaphysics is something unscientific; therefore, no "modern" scholar would stand for it. The very adherence to an openly metaphysical doctrine is deemed sufficient reason for condemnation, which makes the examination of the doctrine itself unnecessary. The problem, however, is somewhat more complicated than that. Every school of scientific thought starts with certain unquestioned basic assumptions which, themselves being accepted as self-evident, cannot be proved by scientific methods and, hence, are of a metaphysical nature. To reject natural law as metaphysical, therefore, means, not rejection of metaphysics as such, but rejection of this particular metaphysics in the name of metaphysical assumptions of modern science. Furthermore, the a priori refutation, without examination, of an alleged element of experience is in itself a metaphysical attitude, a kind of negative metaphysics which plainly contradicts the very assumptions of a positive science.

Professor James Brown Scott has always had the courage to profess his uncompromising adherence to the classical doctrine of natural law, which he sees consummated in the work of the great Spaniards, Vitoria and Suarez. These two volumes are a restatement of, and at the same time a crowning monument to, his faith. They are designed to clarify "the nature of our legal and political heritage and the process of its development" and to approach their goal in two different ways.

In the second volume we find a kind of "codification of the fundamentals of political science and jurisprudence." This codification covers the period from ancient Greece until the beginning of the sixteenth century and is organized under a systematical rather than a chronological viewpoint, its main divisions being "Jurisprudence", "The State", and "The Law of Nations". The fundamental concepts, principles and problems, pertaining to those three main divisions, are paraphrased by pertinent selections from representative philosophers of the period covered.

The first volume is best characterized in the words of the author as "a historical commentary on the principal contributors to the second." Here the author undertakes, with the aid of extensive quota-

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tions and bibliographic references, to put, on the one hand, the selections into the systematical context of the political philosophies from which they were taken, and to explain, on the other hand, the political philosophies against the historical background of the philosophical tradition from which they started and to which they contributed. A general bibliography, a bibliography of source materials, and a very thorough alphabetical index add to the usefulness of the work as a compendium of classical natural law.

In a category of its own belongs the "Introduction" where the author endeavors to reformulate certain fundamental natural law concepts and doctrines with respect to origin and nature of law and state. Here again the wide range of Professor Scott's erudition is put to a useful purpose. By dealing with the fundamental problems of international law under the viewpoint of "humanity's ever advancing standard of justice", and of progress as "fundamental and inherent in our conception of civilization", Professor Scott, however, deviates somewhat from the classical doctrine of natural law. Neither Aristotle nor Thomas Aquinas nor Suarez thought in terms of progress, at least not as applied to the standards of justice. This concept, problematical from both the philosophical and empirical standpoint, belongs to the philosophy of the nineteenth century, which was no longer able to distinguish between metaphysics and experience and to treat each in its own right. And it is certainly not the least merit of this great contribution to the understanding of classical metaphysics, that it makes us again aware of what a metaphysical doctrine of law and state really is. We have seen too much of decadent metaphysics posing as positive science, and vice versa, not to be grateful for a restatement of unmitigated natural law in the words of the masters themselves.

HANS J. MORGENTHAU

THE UNIVERSITY OF KANSAS CITY

The Problem of Historical Knowledge: An Answer to Relativism. By MAURICE MANDELBAUM. New York, Liveright Publishing Corporation, 1938.—x, 340 pp. $3.50.

Dr. Mandelbaum defines the historical enterprise as the attempt "to give a descriptive analysis of that which actually occurred", i. e., to achieve "objective knowledge of the past". Since various schools of historical relativism have engendered a widespread skepticism regarding the possibility of such objective historical knowledge, the his-

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torical enterprise itself, so defined, stands in need of defense. This the author gallantly offers to provide.

An analysis of Croce, Dilthey and Mannheim, with passing reference to Beard and Becker, leads to the conclusion that historical relativism rests on two basic and related assumptions: the validity of knowledge is to be understood or estimated only with reference to the conditions under which it is formed; every historical account is dependent upon the valuational interests and attitudes of the historian. A further analysis of such counter-relativists as Simmel, Rickert, Scheler and Troeltsch leads to the conclusion that the counter position has not been as yet adequately established, and that this can be done by demonstrating that "historical objectivity resides in the historian's ability to portray the real character and relations of historical events."

Assuming that both parties tend to regard facts as objectively ascertainable, the issue is seen to lie in the questions, first, whether such facts do possess an order and structure of their own, and second, whether these are accurately reflected in the account of the historian. The first problem involves the author in an analysis of historical materials: "statements", "facts", "events" and "subevents". Of these the author advances the important assumption that they possess "determinate interconnections", an "appropriate order and context", and definite arrangement, coherence and meaning which are "rooted" or "*implicit*" *in the events themselves, independent of the mind's* activity, and not determined by "any intermediation or selection based upon the historian's valuational attitudes, class interests or the like." Support for this assertion consists in demonstrating that relevance (which is not a subjective category) and causality (which is still a valid concept), being applicable to scientific events, are also applicable to historical events, which resemble them.

The second problem leads to a methodological analysis of the nature of historical understanding and synthesis. Rejecting the popular distinction between fact-finding and interpretation, the author asserts that "the naive experience of historical events" is such that the historian can "grasp" or "find" or "give a picture of" the self-contained order and structure of events, not by imposing his understanding upon his materials or effecting a selection of them in terms of his own values, but by "following where the materials lead".

The two basic arguments of the relativists are thus refuted. First, it is claimed, a distinction can be made between the content of knowledge, and the act which formulates and expresses that knowledge; the validity of an historical work depends on the validity of the for-

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mer (via the correspondence theory of truth), not the latter. Secondly, a distinction can be made between a judgment of fact, and a judgment of value. The former rests on an inference which proceeds from non-valuational grounds; the latter, "if the historian is not a propagandist", will be suppressed, or made so explicit that "any reader can discern when the historian's statements express judgments of fact and when they express judgments of value." It is argued, finally, that historical pluralism invalidates any attempt to formulate a philosophy of history.

This work is clear and thoughtful, meticulously logical, temperate in its mood, and conscientiously fair to the positions of the relativists. It includes a useful and original analysis of the positions of outstanding relativists and counter-relativists, and a convenient bibliography. It contains much, however, to which one may take exception. In the first place historical writing itself suggests that Dr. Mandelbaum has either oversimplified or quite artificially delimited the actual nature of the historical enterprise. In the second place it can be shown that the logical method employed of analyzing the terms within a statement, or the relation of one statement to another, ignores the total structure of statements which constitutes an historical work. (An invalid history might be constructed from individually true statements.) Nor is it obvious that fair illustrations have been used to demonstrate that historical events are similar to scientific ones. Finally, it will be suspected that the author's analysis of the relation between the knower and the object of knowledge is too syllogistically logical and too naïvely unpsychological. A necessary consideration of recent philosophical treatments of this theme, "observation" itself, and of the kind of "truth" man "knows" has been replaced by mere dogmatic assertion. (It is merely asserted that relevance is not a subjective category, and that inference proceeds on non-valuational grounds.) This volume is an interesting and valuable attempt to settle an important problem. Its success, however, is very doubtful.

E. MCCLUNG FLEMING.

COLLEGE OF THE CITY OF NEW YORK

Democracy, Today and Tomorrow. By EDUARD BENEŠ. New York, The Macmillan Company, 1939.—xiv, 244 pp. $3.00.

This volume is a restatement of democratic philosophy by the former President of the Czecho-Slovak Republic. While discussing in academic fashion the evolution of European democracy and the outlook for modern democracies, Dr. Beneš reveals the rare quality of his

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own faith in democratic ideas and practices. Affirmations of belief by influential statesmen are among the important documents of political science; when the statesman is a man of high intellectual caliber and character, who symbolizes in his own person the great tradition of free institutions, his words deserve special attention. This holds in spite of the fact that the book adds little that is new to the understanding of democracy. The ground covered in its six chapters is familiar to those who have followed recent publications—the intellectual and political antecedents of modern democracy, the influence of the World War on the democratization of Europe, the downfall of post-war democracies, the League of Nations as an expression of democratization, modern anti-democratic ideologies, and finally a chapter on the future of democratic institutions. The value of Dr. Beneš' contribution lies in his fresh emphasis on aspects of a development which in its broad outline is already common knowledge.

So, for example, the author attacks the current notion that the World War did nothing to promote democracy. In our present mood of disillusionment, Americans in particular are prone to argue that the war fought in the name of democracy produced only dictatorship. It is appropriate that the leader of a democratic nation, created as a direct result of the war, should remind us of the enormous steps forward in democratic institutions following the struggle. Dr. Beneš enumerates these steps in convincing fashion, from the destruction of four great absolutist empires to the first important effort at a new democratic international order. The author's interpretation of post-war developments, however, does not bring out clearly how the events which have militated against democratic tendencies in recent years were themselves rooted in the World War. To Dr. Beneš the victory of the Allies was a "spiritual and moral victory of free nations in one of the greatest historical fights for the new free modern man, for the free modern nation and for the free modern state." One wonders how far such a highly idealized interpretation of the First World War arises to justify a similar interpretation of the Second World War. So Dr. Beneš writes: "The present fight for this freedom will . . . be finished again with a great and, I am convinced, a decisive victory for freedom and democracy in Europe."

DOROTHY FOSDICK

SMITH COLLEGE

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La Politique criminelle des États autoritaires. By HENRY DONNEDIEU DE VABRES. Paris, Librairie du Recueil Sirey, 1938. —224 pp. 30 francs.

Before considering the criminal law of Italy, Germany and the Soviet Union the author outlines the intellectual principles underlying the respective régimes. He then discusses the principles of criminal policy prevailing in these countries, always comparing them with the French criminal policy. In respect of Germany and Italy the exposition is based on available German and Italian material. In respect of the U. S. S. R. he relies mostly on Italian language publications, in smaller measure on German and French sources. The only Soviet sources he uses are those very few available in foreign languages and thus arrives at a dark picture of conditions in the U. S. S. R.

Professor Donnedieu de Vabres strongly favors a legal bureaucracy in the administration of criminal justice, praising specially the "integrity" and "partial independence" of this bureaucracy in Italy. He favors all tendencies to restrict popular participation in the administration of criminal justice. This tendency is illustrated by his warm approval of the Italian Assizes—whose lay judges are drawn exclusively from politically reliable members of the upper classes—by his recommendation that the French Court d'Assizes be reformed on similar lines and by his horror before the unlearned courts of the Soviet Union. The large body of recent German publications which verbally supports the notion of judicial independence—but showing it to be without substance—is barely mentioned.

The author says that the National Socialist codification proposals do not favor long-term imprisonment; but the published criminal statistics prove the contrary. His statement that German prisons are satisfactory from the viewpoint of organization and hygiene is not well founded. Very few genuine data are available. The *Blätter für Gefängniskunde,* which had been edited by the same Württemberg prison director for many years both before and after the Nazi régime, was put under the editorship of an official of the ministry of justice immediately after the appearance of an article giving some indication of the overcrowding in German prisons.

Professor Donnedieu de Vabres quotes Italian sources which attempt to prove, with the help of criminal statistics, the good results of a severe criminal policy. He seems not to know that in Italy as well as in Germany recurring amnesties, much wider in scope and number than the French parliamentarian amnesties which he severely

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criticizes, and applying not only to judged cases, but permitting a *nolle prosequi* for a great number of offenses, deprive the criminal statistics of these countries, based on tried cases and not on offenses known to the police, of any probative force as far as the question of success or failure of their criminal policy is concerned.

Despite certain limitations, the book contains some useful information about the ideological background of recent criminal theory and statutory changes in these countries. As regards the actual state of the administration of criminal justice and the policy of punishment it is of little value. In his conclusions—mostly occupied with the state of affairs in France—the author shows great doubt concerning the practicability of the traditional institutions of criminal law, as a means for preserving the existing social order. He fears, however, to subscribe wholeheartedly to the efficient new methods of fascism, even though, as his book amply proves, he is prepared to go a considerable way along the road taken by, what he calls, "restoration of authority." Whether democratic or simply parliamentary government is compatible with the changing of the administration of criminal law along fascist lines, the author seems to doubt. One point, however, he fails to mention: at least as regards the policy of punishment, analysis of the recent experiences of Great Britain and Belgium could have shown that even granted the author's premise—the desirability of maintaining existing property relationships—there are other solutions than the intentional brutality of fascism and the conservative, often unintentionally brutal, bureaucratism of his own country.

OTTO KIRCHHEIMER

NEW YORK CITY

Political Thought: The European Tradition. By J. P. MAYER in co-operation with R. H. S. CROSSMAN, P. KECSKEMETI, E. KOHN-BRAMSTEDT, C. J. S. SPRIGGE. New York, The Viking Press, 1939.—xxviii, 485 pp. $4.00.

This is not another history of political theories. It is rather a political-pedagogical tract, based on the assumption that elements of European tradition are present in all important and decisive political attitudes of the European, which portrays the interweaving and continuous operation of the main European political ideas and describes the manner in which they have taken place in a European unity. Political is here used neither in the sense of day-to-day politics nor of party politics, but in the sense of the *polis,* in which

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no private and isolated existence of individuals is recognized, for we cannot neglect man in his relationship to the state, to history, science, economy, art, morals and religion. All epochs raise questions concerning these relationships; and it is of this aspect that we learn here.

Two different methods of approach have been employed. Up to the end of the seventeenth century the facts are grouped in accordance with historical periods. The formation of Western rationalism, Roman universalism, the Christian cultural unity of the Middle Ages, the discovery of the individual during the Renaissance period, and finally the new rationalism of the seventeenth century are the basic elements of this European unity. From the eighteenth century onward, however, the method followed is to determine the contribution made by each major nation (England, France, Germany, Italy, America and Russia) to the political consciousness of the West, not forgetting, fortunately, those ancient, medieval and even modern forms, which are, as it were, the foundations upon which the several national foundations have been constructed.

The underlying principle of the European inheritance appears to be, basically, freedom of thought and doctrine, the dignity of the individual, and a human responsibility to society and the state. Mayer's epilogue argues valiantly that "this ethos of reason" must be preserved. *"Our task is to hand it down to the generations to come, even if we should have to defend it on the field of battle"* (p. 471)—is his battle cry, a voice crying in the wilderness of our contemporary world chaos. After all, Mayer acknowledges elsewhere (pp. 466-467) that this is a well-nigh unattainable goal, because "we look in vain for the closely knit European moral and spiritual *élite,* who might direct the ponderous and complex machinery of the modern great powers to its true ends and aims. Gone are the philosophers of classical Greece, the Stoic sages, the monks of the Middle Ages, the humanists of the fifteenth and sixteenth centuries; in vain did the great rationalists of the seventeenth and eighteenth centuries strive to demonstrate that nature and society were a unity; the nobility of Europe has vanished; dynasties have lost their influence; 'Internationals' of the workers have become but a name; the ruling classes of Europe, among whom, before the War, everybody knew everybody, have been obliged to accommodate themselves to the new State autarchy; it would appear as if sport and the films were the sole remaining common concern of Europe."

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This is not an easy book to read, but it should be useful as an ideological introduction to the question whether the legacy of the European mind can be maintained. Mayer and his associates hope against hope that it can be preserved. If the book, which has its own peculiar vigor but makes no concession to the running reader, errs on the side of excessive generalizations, as it does, then we must remember that the authors are calling for action in what seems to them a world-wide crisis of reason. Bear that in mind and you will be able to regard the result as a brilliant performance.

JOSEPH S. ROUCEK

HOFSTRA COLLEGE

Capitalism the Creator. By CARL SNYDER. New York, The Macmillan Company, 1940.—xii, 473 pp. $3.75.

For many years Carl Snyder was Chief Statistician of the Federal Reserve Bank of New York, a position for which he had qualified as an experienced writer on scientific subjects, including economics. His research studies for the Reserve Bank attracted wide attention among economists, abroad as well as at home. A series of charts embodying major results of those studies is reproduced in this volume, graphically illustrating the growth of capital, power, wages, profits and their interrelationships.

This is not a book of statistics or abstract theories. The author's note of introduction says that it is not intended as a systematic treatise, or written for economists, "but for the larger public who take an intelligent interest in the affairs of this world and in the welfare of its peoples." Books on economics usually are voted dull reading, but this review of economic and social progress weaves two stories into one so naturally that it is readable as well as very informing. Pertinent quotations from eminent men of all periods are an interesting feature.

Snyder's thesis is revealed by the title. What he tells is an amazing story of the increasing production and distribution of wealth under the modern economic system. Here is no feeble apology for capitalism, but a vigorous attack that carries the battle right into the enemy's camp. Marshaling a vast mass of supporting data, he contends "that there is one way, and only one way, that any people, in all history, have ever risen from barbarism and poverty to affluence and culture; and that is by that concentrated and highly organized system of production and exchange which we call Capitalistic; one

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way, and one alone. Further, that it is solely by the accumulation (and concentration) of this Capital, and directly proportional to the *amount* of this accumulation, that the modern industrial nations have arisen; perhaps the sole way throughout the whole of eight or ten thousand years of economic history" (p. 4).

The author drives hard on the thesis that progress has been the result of the genius and leadership of the relative few. To these discoverers and enterprisers we owe all. "There has been no marked increase in the skill or dexterity of the individual worker. . . ." "The increase in products seems due solely to invention, discovery, the creation of new processes, and the realization of them through largely automatic machinery," bringing new industries into being, and all requiring a vast expenditure of capital. This, he insists, is the real secret of high wages and a rising standard of living. "For all practical purposes the influence of legislation, or of labor unions, or the altruistic sentiments of employers, has been zero" (p. 413).

Particularly significant is the evidence produced on the question of wealth and income distribution over which controversy has raged from time immemorial. Citing the researches of Pareto as showing a striking similarity in the curve of income distribution in different countries and at different times, Snyder finds indications of similar variations not only in incomes in every field of economic activity, but also in the distribution of talents and abilities of all kinds. From this he concludes that inequality in income is a *normal* phenomenon, and that the pattern of this inequality is immutably fixed in variations in human ability "that we can no more alter than we can change the distribution of the stars." Attempts to redistribute income by legislation, he contends, cannot affect the pattern but, by damping initiative and diminishing capital accumulation, merely lessen the share for all. And per contra, any increase in total income resulting from application of capital and improved methods must inevitably be shared by all.

With such "time-worn theories of depression" as "our familiar friends", overproduction, underconsumption, monopolies, labor-saving machinery, maldistribution, undue accumulation of wealth, etc., the author has little patience. His own explanation of booms and depressions lies in the field of bank credit. It is, he asserts, the abnormal expansion of credit that produces the boom, and subnormal, or actual, contraction of credit that causes depression. Control credit, he believes, and you can iron out these fluctuations.

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Certainly there is much in this thesis, but can we go so far? Experience does indeed suggest that it is possible, given the will, to control the boom by monetary action and in so doing avoid the usual aftermath—depression. But once depression has occurred, can the same process be worked in reverse? Although persistently tried, it cannot be said to have worked very well in the last few years. Evidently there are other factors to be considered. It will be noted that the author himself appears to qualify the theory a good deal when he stresses repeatedly through the book the importance of such influences as confidence, the will to borrow, and the impact of public policies in regard to taxation, wages and working hours, and business regulation in general.

No doubt some readers will feel that the author has failed to give due weight to results of conscious efforts of the people to better their condition through legislation or by group action as in the case of labor unions, for example. To the extent that such pressures have hastened the adoption of newer and more efficient methods may they not be said to have played a part in the progress which the author so eloquently describes? Yet, unquestionably he is right in his main thesis that real gains can come only through increased production made possible by better equipment and larger capital investment.

In these times, when men are looking critically at established institutions of all kinds, there has been need for some one to tell simply and effectively the story of what capitalism is, how it functions and what it has accomplished. Snyder has done this wonderfully well—so well in fact that it seems a pity that the book cannot be read by everyone and especially by those who in impatience and discouragement would abandon the system for other systems.

GEORGE B. ROBERTS

COLUMBIA UNIVERSITY

The Economics of Labor. Vol. I: *Labor's Progress and Some Basic Labor Problems.* Vol. II: *Labor's Risks and Social Insurance.* By HARRY A. MILLIS and ROYAL E. MONTGOMERY. New York and London, McGraw-Hill Book Company, Inc., 1938.—xvi, 584; xii, 453 pp. $3.75; $3.00.

Since the advent of the New Deal so much has happened in the field of labor problems and such a great deal has been written on the subject, that each new addition to the literature must justify its appearance. In the case of the present two volumes, they are the first

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two parts of a projected three-volume work which is to be more comprehensive than any previous study of the economics of labor problems. Not only was this study meant to be definitive in scope but its approach was to be different. The authors hope that "somewhat more of economic theory has entered into the analyses than is ordinarily the case" with treatises on labor problems. Because of its forbidding size, the work is not intended to serve as a textbook, although throughout its preparation "the needs of the student and of the instructor have always been in the minds of the authors".

The first volume is a detailed account of the position of the industrial wage-earners and of the various economic problems which confront them. With the exception of the brief sketch of the rise of industrialism and the chapters on women in industry and child labor, the entire volume is devoted to a minute theoretical and statistical analysis of wages, income and hours of work. Throughout the book the authors rely heavily on numerous original studies with whose aid they depict the changed position of the industrial wage-earners, the increase in real wages, and the decrease in the work-day and in the work-week.

The second volume is a study of such labor risks as unemployment, industrial accidents, ill health and old age. In the description of the nature and significance of these risks, as well as in the analysis of various ameliorative measures, the authors drew freely upon European experiences. In some cases this is a great asset while in others it turns out to be a liability. Preoccupation with the British unemployment insurance system resulted in a sketchy and oversimplified treatment of our own *experiences* in the field. The "neutrality" of such provisions in the American unemployment compensation laws, as benefit payments during seasonal unemployment or during strikes, and the inclusion of the "suitable employment" clause warrant much more serious consideration than they receive. Similarly, the discussion of the British old-age program could have been profitably expanded.

Throughout the pages the authors treat various types of social legislation with a sympathetic pen. But despite their apparent adherence to various governmental ameliorative programs, they are by no means blinded by their personal preferences. From the standpoint of impartiality and objectivity, this work may well serve as a model for other writers to follow. The authors are fully aware of the numerous economic consequences of wage and hour legislation, of the difficulties of abolishing child labor, and even of the relation of the insurance of risks to their incidence. The realism of the work is, however, con-

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siderably weakened by the endorsement of "merit rating" provisions in unemployment compensation laws despite their obvious conflict with some of the fundamental principles of social insurance, and by the uncritical acceptance of the inadequate provisions of the federal old-age annuities plan prior to the recent liberalizing amendments.

The chief contribution of these two volumes lies in their organization. Unlike most recent treatises on labor problems, they possess an organic unity which arises from placing the entire subject in the center of the distribution problem. This is especially true of the first volume which revolves around the wages question. Both books are descriptive rather than analytical. They are largely a collection of the findings of original studies well known to most students in the field. Unfortunately, the authors failed to sift these studies carefully. As a result, the books are a blending of the best as well as of some very questionable quantitative and qualitative materials on the subject. Nevertheless, they should prove valuable as a reference work. Those who are unable to spend the time and effort required to examine the numerous books and articles will be very thankful to Professors Millis and Montgomery for bringing them together between four covers and making them accessible to the general reader.

MURRAY ROSS.

BROOKLYN COLLEGE

Business and Capitalism: An Introduction to Business History. By N. S. B. GRAS. New York, F. S. Crofts & Co., 1939.—xxii, 408 pp. $3.50.

Casebook in American Business History. By N. S. B. GRAS and HENRIETTA M. LARSON. New York, F. S. Crofts & Co., 1939.—viii, 765 pp. $5.00.

American economic historians have been reading and studying with profit the works of Professor N. S. B. Gras for about a quarter of a century. They began with his *Early English Customs System* (1918); and went on with his *Introduction to Economic History* (1922), his *History of Agriculture in Europe and America* (1925), his *Industrial Evolution* (1930), and his *Massachusetts First National Bank of Boston, 1784-1934* (1937). In these books and in other of Professor Gras's scholarly endeavors, as in the much regretted *Journal of Business History,* there was (1) a development of an underlying emphasis upon the history of actual businesses, whence

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the term "business history" in place of economic history; (2) a vast store of information; (3) a quaint penchant for coining strange words like "usufacture"; (4) an immodest conviction that something entirely new was being brought forth; and (5) a pattern of the past which consisted of "stages"—more or less separate institutional compartments superimposed on one another in time.

In the books under review, Professor Gras displays all of his now familiar mental characteristics, scholarly idiosyncrasies, and temporal synchronizations. Capitalism, which is defined in the not too helpful fashion as "a system of getting a living through the use of capital", is gallantly gathered into the fold of business history. It is then divided up into its various "stages"—into "Pre-Business Capitalism", "Petty Capitalism", "Mercantile Capitalism", "Industrial Capitalism", "Financial Capitalism", and "National Capitalism" (which incidentally includes the Soviet experiment,[1] Fascism, and the New Deal). Each "stage", introduced by some rather lamentable home-brewed, aphoristic poetry, is subjected to historical analysis.

Within these analyses, there is much eye-opening, brain-quickening material. And yet there are many faults that can be found with the entire undertaking. The "stage" approach to history has to be used with extreme caution in order to avoid giving the impression that *at any given time* there were not in existence lags from past institutions and the beginnings of new patterns of thought and action. Secondly, Professor Gras has a rather annoying habit of tracing the history of his subject in the European scene up to about 1800, and then of shifting his field of operations entirely or almost entirely to America. He indulged in this disconcerting trick in his books on industry and agriculture and now he has done it for capitalism. Such a procedure leaves one without a sense of historical growth in different places—and place as well as time is essential to the historian. Thirdly, there are instances in this book of rather extravagant claims, as for example on page viii, where the author asserts that economic history for the period 1200-1800 has to be rewritten because of his discovery of the sedentary merchant. The sedentary merchant is not a new find at all, as is witnessed by the attention given in almost all economic histories to persons like Jacques Savary, the Fuggers, the early Medici, and hundreds of others; and if new emphasis has been placed upon him, that hardly warrants a revolutionary reinterpretation of six cen-

[1] Communist capitalism is mentioned, but is not discussed at length.

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turies of history. Fourthly, the author has made some rather pontifical and unqualified judgments of which the following will serve as an example: "It was the depression that brought class antagonisms into American consciousness but it has been the New Deal politicians who have fanned the flames and thrown into the fires the most inflammable materials" (p. 355).

That a reviewer should criticize a book as severely as this and then be willing to recommend it, which this reviewer is willing to do, is proof that the volume has much merit. The one statement that private capitalism has to grow to maintain itself as an institution is worth the price of the volume—if one has not already got the idea from other sources. Indeed, this book ought to arouse the most lethargic student from his indifference and stimulate the most somnolent professor to speculation and investigation. For classroom purposes, the casebook will be found to contain valuable concrete accounts (not necessarily documents) of matters referred to in the textbook.

SHEPARD B. CLOUGH

Prices and Wages in England from the Twelfth to the Nineteenth Century. Vol. I: *Price Tables: Mercantile Era.* By SIR WILLIAM BEVERIDGE with the collaboration of L. LIEPMANN, F. J. NICHOLAS, M. E. RAYNER, M. WRETTS-SMITH and others. London, New York, Toronto, Longmans, Green and Co., 1939.—liv, 756 pp. $12.00.

With this book, the International Scientific Committee on Price History (see POLITICAL SCIENCE QUARTERLY, September 1938) begins the publication of its findings on English prices and wages. To the present work will be added shortly volume II, entitled *Price Tables: Manorial Era* (about 1150 to 1550), volume III, *Wages, Wheat Prices, and Supplementary,* and finally volume IV, *Review and Appendices.* Thus will be brought to completion, or nearly so, one of the most ambitious undertakings of the present generation in the field of economic history. When the job is done, an enormous amount of light will be shed upon many problems that are now shrouded in obscurity. But only will this be true when all the data have been published, for without information on wages it is impossible, for example, to test the "profit inflation" hypothesis of Keynes or the findings of Elizabeth Gilboy on the effect of high real wages on the industrial movement in England in the eighteenth century; and without the summary fourth volume, it would be necessary to duplicate much

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of the Committee's labor if an attempt were made to show long- and short-term price and real wage fluctuations or to correlate these cycles with general business, social and political developments.

Inasmuch as this is the case, an effort in this review to show the import of English price data during the mercantile era is out of the question. Rather an attempt will be made to survey the character of the data here included and to describe the manner of presentation. In the first place, it should be noted that the prices published in this book are those obtained from the records of schools like Eton College, Westminster and Winchester, from hospitals, and from government purchasing departments. They have the virtue of providing continuous series over long stretches of time, but have the drawback of being prices paid by institutions and hence subject to particular characteristics of institutional purchases—large quantities, long-term contracts, lack of haggling over small fluctuations, a strong bargaining position for substantial changes, and the necessity for purchasing a large number of items which the ordinary individual would not have obtained through the channels of commerce but would have produced himself. Whatever the advantages or disadvantages of such sources may be, they have been used exclusively by the English Committee. The data thus secured have been presented in " primary tables " which give for each institution and each commodity a yearly, quarterly or monthly average price. These tables, with their introductory explanations, are supplemented by " secondary tables ", which express " price-relations " or the price in each year as a percentage of the mean price in the selected period from 1720 to 1744. In volume IV it is planned to include tables of decennial means, tables of silver equivalents, and tables of miscellaneous character.

In the primary tables, prices are left in terms of contemporary money rather than of silver, in spite of the diminution of the silver content of the shilling by one half from 1300 to 1461, and the debasement of the coinage under Henry VIII and Edward VI. It is argued in defense of this practice that the shilling always remained the money of account and that reducing prices to terms of precious metals simply establishes the exchange value of these metals.

In so far as it it possible to make any generalizations about the data contained in this book, it is, first, of the greatest interest to note that the compilers believe that their findings tend to corroborate those of Thorold Rogers, which would lead one to assume that the oft indicated statistical errors of this pioneer may have cancelled themselves. Secondly, prices of goods that entered into a relatively wide market—

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like coal and salt—as opposed to goods with a very local market—like sand and gravel—have the greatest fluctuations, and hence fluctuations are an indication, other things being equal, of the capitalist development of the market. Thirdly, there seems to have been a price rise, from the time when these series begin to about 1640, then a small decline to about 1680, followed by another rise to between 1710 and the 1720's, then a decline to the middle of the eighteenth century, and finally a rise that culminated in the extraordinarily high prices of the French Revolutionary and Napoleonic periods. The long-term curve will undoubtedly be included in volume IV, and the above statement is the roughest of generalizations. Perhaps the most striking fact about the prices here given is that there are endless variations in trends and even contrary tendencies of given articles—movements which have to be accounted for by market conditions, production developments, especially technological improvements, and varying supplies of raw materials.

SHEPARD B. CLOUGH.

Competition among Grains. By N. JASNY. Stanford University, Food Research Institute, 1940.—xiii, 606 pp. $4.00.

The purpose of this study is "to indicate the major influences responsible for the present distribution of grain production and world trade among the individual grains and the major long-run changes in this distribution" (p. 2). The book, as Dr. J. S. Davis points out in his introduction, is a study in the neglected field of inter-commodity competition. For practical reasons the study is limited to the five grains which figure most prominently in world production and trade, viz., wheat, corn, oats, rye and barley. A further limitation is geographical; the study is concerned primarily with the occidental parts of the world's temperate zones. This limitation, as well as the omission of rice, eliminates the Orient, which is recognized as "a world by itself with its own climate, diet, economic and social set-up" (p. 7).

Part I is devoted to an examination of the conditions of demand, the uses of the grains for human food and feeding of animals, and their nutritive values. It leads to the conclusion that "all grains are rather similar in the kind and amount of nutrients they contain, and in nutritive value. If these were the only factors considered by consumers, the possible substitution of one grain for another would be almost unlimited, and the prices that consumers would be prepared to pay would be approximately equal for all grains except oats"

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(p. 25). However, consumers do not buy solely on the basis of nutritive value. Hence substitution in the market is not nearly so perfect as in the laboratory; each grain or group of grains is preferred for some specific use. Furthermore, specialization of demand is increasing; the food grains, especially wheat, are more and more sharply distinguished from the feed grains, and within the group of grains used principally for human food, wheat has come to occupy a unique position. The resulting inelasticity of demand for wheat has important consequences for interregional and international trade. "Where one grain can easily be substituted for another, the grains that are consumed are predominantly those produced locally. Hence trade, and particularly international trade, tends to be limited in scope" (p. 28). This is the situation displayed by the feed grains and in the short run by rye. But the wheat situation is entirely different; its market is largely independent of that of other grains. The possibility of substitution being entirely absent or limited, wheat if it cannot be produced locally is brought from distant regions. Here is one reason for the predominance of wheat over other grains in international trade.

These conclusions are based on painstaking examination (in chapters iii and iv) of the facts of consumers' choices and their explanation in terms of the adaptability of the grains to various uses and the regional differences in the quality of each grain. Thus *from the demand side* the author explains price spreads *between the several grains at the same places*. Marketing costs and protectionist measures (chapters vi and vii) directly affect prices in the same grain in different places; indirectly they affect the spreads between the local prices of the various grains. The similarity of transportation charges, and other marketing costs, to import duties in their effects on interregional trade, which has been often pointed out, is confirmed by Dr. Jasny's studies of freight rates and handling charges.

The discussion of grain tariffs adds little to what has already been written on this subject. The author deals almost exclusively with European tariffs; he gives, for example, no discussion of the effects of United States tariffs on the spread between Canadian wheat prices and ours. A comparison is given of import duties affecting the entrance of the grains into important deficit countries in 1914 and 1929; later data are not significant, the author recognizes, since import duties have been so largely superseded by quantitative controls and exchange restrictions. To these restrictions is ascribed the extraordinary price spreads in recent years between markets. Tariffs have been responsible

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also for a shift of production in importing countries to bulky feedstuffs yielding heavily per acre.

Part II treats the *supply* factors influencing the competition among grains. Among these, relative yield is given first importance. Chapters x and xiv discuss the causes of regional variations in yield, soil temperature, moisture and cultural practices. Per acre cost of production of the several grains, except corn, is frequently very similar, sometimes identical. Corn costs per acre are indeed higher than those of the small grains, but the difference is offset in many regions by the higher yield of corn.

Dr. Jasny shows in Note C that he is fully aware of the pitfalls that await the careless user of agricultural costs of production. But since his concern is with the *ratios* between the costs of the various grains and not the relation of costs to selling prices, his conclusions are not vitiated. The conclusions reached in the cost studies are that the five grains, excepting corn, differ very little in per acre costs. But as the result of variations in yield the costs per unit of weight show considerable differences. Wheat, the author observes, is usually the most expensive grain; it is generally somewhat higher in per acre costs except where very extensive methods are practiced. Wheat, moreover, is usually the grain which ranks low in yielding power. "Hence, it is only under exceptional conditions that wheat is cheaper to produce per cental than any of the other small grains."

Part IV, "Price Relationship vs. Cost Relationship", attempts an integration of the studies of demand and supply factors. In it the author hazards a number of prophecies regarding the future trend in production and international trade in the grains, among which two are of particular interest. (1) World wheat production is likely to increase in the future at least at the rate of increase in total world production of all grains. (2) Corn, on account of its high yield, seems to be the only grain which in large quantities will be able to overcome the obstacles of high marketing costs and tariffs, if the latter are not higher on corn than on other grains.

The reviewer is not competent to pass on the accuracy or significance of technical sections dealing with agronomical and chemical factors. But for the author's treatment of economic factors, he can express only admiration. To assemble and relate the pertinent material on the five grains from the fields of geography, farm management, and marketing was in itself a difficult task, which has been well performed. The book is truly encyclopedic; its chief merit, however, is not as a convenient source of information, but rather in its con-

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clusions. From the information he has collected, much of it not reproduced in the text, Dr. Jasny has distilled the significance, giving his readers the benefit of wise and stimulating generalizations.

PERCY W. BIDWELL

COUNCIL ON FOREIGN RELATIONS

The Economics of a Declining Population. By W. B. REDDAWAY. New York, The Macmillan Company, 1939.—270 pp. $2.50.

Writing before the present war in Europe began, Mr. Reddaway acknowledged the havoc any war would wreak on an economic analysis couched in terms of smooth trends. Yet the damage may not be irreparable so long as the eventual post-war English economy is a capitalist one with the features of monopoly, imperfect mobility of labor and capital, continuing technical advance, and limited governmental intervention. For a primary consideration of the author was to place the problem of economic effects of a population decline in its proper perspective in relation to other problems in themselves equally pressing. Among these are unemployment, the national income and national debt, and England's international trade position.

After a brief explanation of the method of population forecasting to be employed, in which emphasis is placed on the preponderant significance of age-composition in accounting for economic changes, there is a statement of the population position in England as of 1935 and the limits of its probable future course. Even on a most optimistic estimate the conclusion is reached that "With the present figures for mortality-rates, childless marriages and non-marriage, a decline in population is inevitable unless fertile marriages produce an average of nearly three children" (p. 40). This seems an unlikely eventuality in view of an estimate of the net reproductive rate for England and Wales at between .7 and .8 (p. 29).

Confronting this almost certain decline, Mr. Reddaway attacks first the effects it may have on unemployment. This he divides into the frictional and general varieties. The first type should become more troublesome as population declines, not only because relative declines in particular trades will no longer be softened by slow absolute increases as population grows, or because a changing age-composition will involve altered demands for many commodities, but principally because a rising per capita income, as mentioned below, will increase the fickleness of demand and hence the frequency of displacements. The question of determining the effects of a de-

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clining population on general unemployment is complicated by the necessity of having to explain what it is that determines the level of general employment in any case.

Here the author presents briefly the Keynesian solution to this problem and goes on, with reference to its determinants, to predict the probable course of events and the possibilities for helpful governmental action. Resting heavily on the belief that per capita income will increase as the result of continued capital accumulation and rising productivity, Mr. Reddaway looks for increased difficulty in avoiding general unemployment because of the growing instability of demand, a reduction in "the number of obvious openings for capital outlay" (p. 231), and, related to the first phenomenon, a deterioration of investors' confidence. Nor can a reduction in thriftiness be confidently argued in view of the unsettled state of present opinion on why people do save, much less how much a dwindling number of them will. In the absence of governmental capital undertakings and encouragements in the form of cheap money policy, only an aggravation of the general unemployment situation can be expected.

Although employment is the chief problem, the others mentioned in the opening paragraph above are studied in even closer connection with the specific phenomenon of population decline. In no case is it found that this factor alone presents critical issues for the next thirty or forty years. Yet because numbers may on present estimates be expected to fall more sharply after such a period, the importance of acting (especially to prevent the slumps which population decline is to bring) before too serious developments occur is heightened.

In view of the argued increased likelihood of slumps and the consequent necessity for governmental action to avoid or overcome them, it would seem reasonable to expect an even less pleasant future than Mr. Reddaway suggests will face England (unless new and extensive remedies are undertaken and unless there's a war!); all trough and no peaks would seem most plausible. Per capita income would on this basis very probably fall, although irregularly, and the adjustments which would have to be made would be doubly difficult. Yet there has been a war, and although it will upset the calculations employed it must increase the urgency of many of the problems, particularly in public finance, and the pertinency of Mr. Reddaway's arguments concerning them.

DONALD W. O'CONNELL

ELMHURST, N. Y.

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Les Étapes de l'économie fasciste italienne: Du corporatisme à l'économie de guerre. By LOUIS R. FRANCK. Paris, La Librairie Sociale et Économique, 1939.—282 pp. 30 francs.

M. Franck's book is a sequel to his *L'Économie corporative fasciste en doctrine et en fait* (Paris, 1934), and it is quite as important. Major conclusions of the earlier study were: The Fascist syndical organization has destroyed the Italian labor movement, and has molded the wage-earners into a docile instrument of the dictatorship. Moreover, the new environment of Fascism is "not favorable to a vigorous defense" of living standards. Once the proletariat was reduced to impotence, the politically significant forces in Italy were the dictator and his entourage; middle-class commercial and landed proprietorship as reflected in the Fascist Party; and the great captains of industry and finance. M. Franck closed his first book with the observation: "The control of the Italian economy belongs to the oligarchy of the great employers' confederations, but under a dictatorship the bearing of politics and administration upon private activity is so profound that Fascism has been able to give the impression of securing a mastery over the Italian economy which, in fact, escapes it."

However, during the past decade of depression and war, the rôle of the State in economic affairs has become more and more extensive and decisive. The leading politicians of the Party have established close ties with personalities in the realm of big business. It is this new ruling group, this symbiosis of politicians and big business men, that profits from the inflation of the State. But the lesser orders of proprietorship are falling into ruin. The chief interest of M. Franck's new book is the details of Italy's transformation into a closed system preparing for war, and its social implications.

The economic sanctions applied by the League against Italy in 1935-36 were ineffective for their avowed purpose, but they did serve to underscore dangerous weaknesses in the Italian industrial and financial structure, and they provided the dictatorship with a firm psychological basis for a campaign of extreme economic nationalism. Autarchy has necessitated elaborate State controls over foreign trade and the exchanges, over savings and investments, production and prices. The corporate mechanism has proved useful to these ends, but its function is nothing more than liaison between the government and the economy. From a technical-administrative standpoint, the new controls have been very effective in pressing income out of the people and in diverting it to the purposes of the State.

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M. Franck surveys briefly, and on the basis of meager evidence, the accomplishments of the drive toward self-sufficiency. He finds that autarchy has promoted technological progress in certain fields, as in electric-power production, but in general it is costly and of dubious value for anything but a *short* war. Italy's poverty in capital and natural resources is a severe limitation. The more immediate gains and losses are clearer. Autarchy has benefited the heads of big, monopolistic firms producing armaments, chemicals, synthetic textiles, electric power. They operate in a closed market, their business is largely with the State, and their profits are eminently patriotic. They—that is, such men as Donegani, Conti, Parea, Pirelli, Benni, Agnelli, Bevione—have intimate connections with the governmental hierarchy, and thus obtain subsidies, raw materials, capital, and contracts on favorable terms, and all in the name of the higher national necessities. True, their profits are drained by heavy taxes and "voluntary contributions", and they are vitally dependent upon the continued power of the dictatorship. On the other hand, medium-sized and small business men fare badly. Small merchants are caught between the upper and nether millstones of price control. Rentiers and landed proprietors stagger under the financial burdens imposed on them by the State. As for the masses of peasants and workers, they are helpless. Autarchous programs have improved the domestic markets for certain agricultural products. Wage-rates remain low, yet military production has at least given jobs to many who formerly were unemployed. (But here again M. Franck presents little evidence.) Moreover, the welfare services promoted by the régime are perhaps some compensation for meager wages and the loss of freedom. "The military state—where you escape the vexation of having to think, where others think for you—certainly has its pleasures. As for war, that is quite another matter."

It may be noted that M. Franck quotes Gaetano Salvemini: "We cannot be impartial. We can only be intellectually honest—that is to say, we must take account of our feelings, we must guard against them and protect our readers against the dangers to which they might be exposed by our partiality. Impartiality is a dream; honesty is a duty." This is a sound standard. But, possibly because of its very obviousness, it is all too often forgotten by students of social issues. M. Franck's work gives every evidence of intellectual honesty.

CARL T. SCHMIDT

COLUMBIA UNIVERSITY

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The Economic Life of Primitive Peoples. By MELVILLE J. HERSKOVITS. New York and London, Alfred A. Knopf, 1940.—xii, 492 pp. $4.50.

It is not brash to say that Dr. Herskovits has written a book which will stand as a basic contribution to comparative economics reminiscent of Lowie's *Primitive Society* in the field of social organization. It has been written, as Lowie's was, after a minute and extensive combing of literature with a view to positing problems and clarifying classifications. It analyzes current concepts in the field of economics and anthropology and is quick to stigmatize formulae too vague for anything but verbal shadow boxing. It is a balanced presentation of theoretic criticism, of summarized data and of limited but tight and suggestive speculation.

A volume of this fundamental character deserves a summary of its contents in order to direct the reader to the wealth of material he can expect in it.

Part I describes briefly why economists and anthropologists have been slow in profiting from the cross-fertilization now current in the social sciences. It is addressed to both fields and is perhaps therefore obvious and somewhat scolding in tone. One generalization deserves mention: the correlation between non-literate and non-machine cultures and the association between our machine technology and our mechanistic philosophy, in contrast to the quasi-mystical philosophy of non-machine cultures. This characterization is reminiscent of Ruth Benedict's suggestion of our mechanistic approach to human beings contained in her article on Animism in the *Encyclopaedia of the Social Sciences.*

After this introductory section, which is the least prepossessing portion of his book, Herskovits plunges into more specific subject matter. Parts II through V are summaries and discussions of data on primitive economics. The form of presentation, the discussions and conclusions save these sections from being pure compilations. Footnotes and bibliography are richly used but relegated to sections at the back of the book. This makes reference to them cumbersome but undoubtedly makes the bulk of the book more readable. The actual material in Part II treats of such problems as relationship to geographic environment, including brief résumés and critiques of theories by previous writers. It also considers problems of labor: coöperation, specialization and divisions thereof, as well as the time invested and attitudes toward work. Part III deals with exchange

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and distribution. It ranges from ceremonial exchange through concepts and manipulation of money and wealth to consumption and capital formation. Part IV on property is perhaps the least inspired and original portion of the book, although it is an obviously necessary part of the task the author set himself. Part V handles the question of economic surplus in terms of leisure, cost of government, service of the supernatural, display and status.

In the last section which again discusses material from a more general point of view, Dr. Herskovits argues with clarity and force his position on the value of comparative economics, distinguishes between the ideas of economic materialism and historical determinism as contained in Marxian and, to a lesser extent, other dialectic schools and discusses such catchwords as collectivistic and individualistic. His position, as might be expected, is anti-simplistic.

Stylistically Dr. Herskovits' book is precise in organization but at times a bit prolix. In any event, this is, in the terms of commercial reviewers, a "must book" for all social scientists whose interests are wider than their areas of specialization.

CORA DU BOIS

SARAH LAWRENCE COLLEGE

Financial Questions in United States Foreign Policy. By JAMES W. GANTENBEIN. New York, Columbia University Press, 1939.—xv, 264 pp. $3.25.

In 1938 the Department of State instituted a plan for enabling selected young career men to improve their training by taking a year of graduate work in American universities. Perhaps the most surprising fruit of this experiment has been the publication of a number of journal articles, and now a book, by different members of the first year's group.

The scope of the present volume is somewhat narrower than the title might suggest. The author has confined himself to "the more important groups of financial matters of an international character to which the United States Government is being called upon to give consideration." The major topics taken up are foreign exchange instability, exchange control, intergovernmental debts, foreign dollar bonds in default, international double taxation, and governmental financing of foreign trade. No attempt is made to treat these subjects historically; the bulk of the discussion relates to the period since 1929. The material presented is well chosen, clearly arranged, and helpfully

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documented. The book makes accessible a body of material not readily available elsewhere. More than this, it treats certain subjects, as in the case of bondholders' protective organizations in the United States, which have not previously been examined in any detail. It is a reflection of the changes that have taken place in this field in recent years that a majority of the topics discussed in this volume are entirely absent from comparable books published a decade or so ago.

While the author writes as a private citizen, it is probable that the book reflects fairly accurately the attitude of the Department of State in respect of the subjects with which it deals. If this is the case, it has entailed no appreciable loss of interest or objectivity. It should be said that Dr. Gantenbein has emphasized the factual aspects of the problems with which he deals, and has not undertaken to pursue the economic analysis very deeply. In other words, the book is primarily intended for the general reader and the student of governmental policy rather than for the economic theorist.

In common with many studies of this sort, the book suffers from a tendency to stress immediate causes without indicating clearly the basic factors that enabled these causes to operate. For example, one should doubtless include the maldistribution of gold and the existence of artificial exchange rates among the factors leading to the failure of the gold standard in the early 'thirties. But what still needs to be explained is how these conditions could arise or, having arisen, could continue. The answer to that question, and to others raised in this book, lies in the fact that we failed to provide a monetary mechanism whereby conditions of disequilibrium would have been corrected. Yet at the same time we relied, to a considerable extent, upon automatic, individualistic motivation to make the system hold together. International financial policy following 1918 is to be criticized as having gone rather too far or not far enough in the direction of regimentation and control. It was the attempt to marry incompatible elements of freedom and of control, rather than the inherent unsoundness of either system, that produced the financial wreckage of the 'twenties and 'thirties.

C. R. WHITTLESEY

PRINCETON UNIVERSITY

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Papers Relating to the Foreign Relations of the United States, 1922. 2 vols. cxv, 1075; cix, 1042 pp. $1.75 each. *1923.* 2 vols. cxi, 973; cxix, 1283 pp. $1.25; $2.00. Washington, United States Government Printing Office, 1938.

These massive volumes, the release of only one government upon the purely diplomatic aspects of two years of history, are sufficient commentary upon the growing immensity of the historian's field. To be sure, these are years of peculiar significance. "Normalcy" was in full sway. Some remorse over the shelved League of Nations and the still-born Association of Nations was responsible for the Washington Conference on the Limitation of Armaments and the ensuing Four and Nine Power Treaties. Isolation was the key to American foreign policy, but an isolation tempered slightly by nostalgia, by the yearning for a recapture of that vision which for a season, all too brief, had given the United States world leadership.

That world leadership had intentionally been sabotaged would never appear from the immense volume of correspondence centering in these years in Washington. The potentialities of leadership remained—unprecedented wealth and power and a momentum that carried over from a more spacious day. Only the will to leadership was lacking. The motions were repeated on a gargantuan scale; the spirit alone was wanting.

On the more constructive side, progress was apparent toward settlement of the Tacna-Arica dispute, along with a disposition toward international patience in aiding China to a fuller realization of her own nationality, helpful in itself but fraught with future omen.

The usual solicitude was requisitioned for American interests in the mandates, and in oil concessions here and there, in the British possessions not least. Progress was recorded toward abrogation of the Lansing-Ishii agreement of five years previously, and in a ban on picture brides. Bolshevik persecution of the Patriarch Tikhon evoked a personal appeal from President Harding; and recognition was accorded to the republics of Estonia, Latvia and Lithuania, nations assured thereby, as we now see it, of seventeen years of independence.

The Presidential message for December 6, 1923, struck the keynote for the period when it asserted: "Our country has one cardinal principle to maintain in its foreign policy. It is an American principle. It must be an American policy. We attend to our own affairs, conserve our own strength and protect the interests of our own citizens;

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but we recognize thoroughly our obligation to help others, reserving to the decision of our own judgment the time, the place, and the method. We realize the common bond of humanity. We know the inescapable law of service." This sound Rotarianism could not obscure the crass isolationism of the pronouncement. In retrospect, it appears to lack somewhat of the ultimate in wisdom. That it so adequately expressed an entire period in American diplomacy is one of humanity's great tragedies.

The concluding volume of this imposing quartet reveals something like normalcy in German-American relations, casts light on Russian barbarities toward Roman Catholics, and finds the United States actually participating in the Lausanne Conference on Near Eastern Affairs. After all the world was not a vacuum.

Once more the Department of State merits the grateful appreciation of the citizen. These publications conform in every way to the high standards previously set.

LOUIS MARTIN SEARS

PURDUE UNIVERSITY

Diplomatic Relations between the United States and Japan, 1895-1905. By PAYSON J. TREAT. Stanford University, Stanford University Press; London, Oxford University Press, 1938.—x, 291 pp. $3.50.

The publication of this volume not only carries forward another ten years the documentation of American-Japanese diplomatic relations, but continues the author's two-volume study of *Diplomatic Relations between the United States and Japan, 1853-1895.* As previously, the material is arranged chronologically and is based on the archives of the Department of State. Liberal extracts are incorporated in the text with a minimum of comments to permit the documents to speak for themselves. Maps of the Far East are on the inside covers and are useful but contain some inaccuracies. Shimonoseki should be on the main island, not in Kyushu, and Mito is located too far to the west. However, this volume not only completes a momentous study but marks, in two ways, the end of an era. In the first place it concludes with the last calendar year for which the state papers were available to students. Secondly, it clearly indicates that with the emergence of Japan as a strong Power with definite continental interests after the Treaty of Portsmouth (1905), the hitherto friendly relations between Japan and the United States were to become

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increasingly strained through a conflict of interests in Manchuria and the divergence of viewpoints on immigration.

Naturally enough the documents presented deal with the questions which arose between Japan and the United States as a result of our active participation in affairs in the Far East by the annexation of Hawaii and the Philippines and the rôle we played at the time of the Boxer Uprising in China in 1900. During the decade covered in this work the question of Japanese immigration, which was to become so important after 1905, is rarely mentioned in the despatches. Only two cases of discriminatory treatment toward Japanese were reported in 1899, none are mentioned in 1902, and only one minor question arose in 1905. Of the various problems which arose from the inauguration of new treaties in 1899, all seem to have been of minor importance. In fact, throughout the entire period there is ample evidence in the material in this volume to show that the two nations were on the most friendly terms.

This friendship is clearly seen from an examination of the documents relating to Hawaii and the Philippines. When the annexation of the former became imminent, Japan made continual appeals that the status quo be maintained, not because she herself had designs on the islands, but out of a desire to obtain such concessions from the United States as should guarantee the rights of her subjects settled there. Even more astonishing, in contrast to what is assumed to be her aims today, was the attitude of Japan toward the disposition of the Philippines as revealed in various communications. Following the occupation of Manila in August 1898 the Japanese government remarked that Spain was incapable of suppressing the insurrection and that it believed neither a new Spanish government nor an independent native government to be a satisfactory solution of the problem. It concluded, "the extension of the sovereignty of the United States over those possessions would furnish a complete solution of the question which would be entirely satisfactory to Japan" (p. 58). Likewise, numerous extracts show that by giving her consent to the Open Door Policy as enunciated by John Hay in 1899, providing all the other Powers did the same, and by her attitude during and after the Boxer Uprising, the Japanese government, as yet, showed little interest in an aggressive Asiatic policy. For example a despatch from the American chargé in Tōkyō in 1901 states: "That Japan earnestly desires a speedy settlement of the present chaos and the preservation of the integrity of China is beyond doubt. . . . The present government would be reluctant . . . to expose the country to attack by owning territory

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on the mainland. . . . There seems to be a sort of deep-set idea that Russia must be fought sooner or later; and every Japanese draws the line at the frontier of Korea" (pp. 132-3).

As is intimated in this report, Japan's greatest concern was with the encroachments of Russia, especially in Manchuria, and most of her diplomatic relations with other countries for the next five years were dictated by this fact. Thus the student of history and international relations will find most of the material presented for the years 1903-5 full of the Russo-Japanese War: steps leading to the war, problems of American neutrality, President Roosevelt's rôle at the Peace Conference, and America's attitude toward the belligerents. In connection with the last point, it is indicated that American sympathies were not only with Japan but officially nothing was done to hamper her, especially in Korea. Thus in January 1905 President Roosevelt wrote: "We cannot possibly interfere for the Koreans against Japan" (p. 253), and by November, after Japan had control of Korean foreign relations, he ordered the American legation at Seoul closed.

Obviously all seeking primary sources on this period will be extremely grateful that this great work on American-Japanese diplomatic relations has finally been completed in such a masterful and scholarly way. They will only regret that more recent documents are inaccessible to the author, for a similar work on an even more recent period would be invaluable in interpreting developments at a time when American-Japanese relations are becoming more involved each year.

HUGH BORTON

COLUMBIA UNIVERSITY

The British Common People, 1746-1938. By G. D. H. COLE and RAYMOND POSTGATE. New York, Alfred A. Knopf, 1939.—xi, 588, xxxiii pp. $4.00.

This volume on the political and economic history of the common people begins with the destruction of the old Scottish clan society at Culloden in 1746. It then proceeds, in fifty chapters averaging eleven pages each, to treat the well-known story of the consequences of industrial change for an aristocratic political structure and for the fortunes of the working class. The novelty of the book lies less in the materials it contains than in the way they are combined. There have been histories of the working class, of radical movements, of developments in transportation, agriculture and industry, of the vic-

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tories of democracy, but no one has attempted before to put all these together and to preserve at the same time a vast amount of detail. The factual information in the book is so vast that it can be described, not uncharitably, as a reference guide. The reader can discover, for instance, the real wages of workers at six different periods; he can inform himself, from concisely-written but full sentences, of the Scottish reform movement of the 1790's, of the new unionism of the mid-Victorian period, of the treatment of labor in the last war. He can learn that William Horsfall, a manufacturer, was murdered in 1812, that John Drury was arrested in 1847 for inciting to sabotage, that Benjamin Lucraft was elected to the Finsbury School Board in 1872, and that Victor Grayson, running on a socialist platform, won a by-election in 1908. That the authors have made minute use of recent monographic literature, especially in the economic field, is evidenced throughout. They have been deliberately cautious in avoiding any general interpretations, and give the impression that they expect the facts, scientifically presented in the organization and the setting they employ, to speak for themselves.

Nevertheless, though paragraphs of interpretation are rare, this is more than a reference book. The authors, by the questions they ask and answer and by sentences, phrases and adjectives found on nearly every page, maintain a general argument or rather point of view: that the governing and possessing classes have always been the enemy of the workers, and that the latter have been slow both to formulate and to adopt the dictum that in militant socialism consists their best weapon. Democratic sentiment, therefore, must be made to begin with mobs shouting for Wilkes and liberty; a still aristocratic house of commons must be made to pass the Factory Act of 1833 under the influence of "diplomatically vague catchwords"; the failure of radical movements must be explained by the bare statement that the laboring classes were "psychologically diseased" or "passive" or "apathetic" or "placid".

To this reviewer the singular point about the socialism of the authors is the scanty sympathy which they reveal for the workingman. "No individual soldier in the Stuart army of 1746 had a grave", they say on the first page, implying that in the next two centuries all that is going to be changed. But "The British Common People" emerge as statistical tables and family budgets, as trade unions and movements, not as men and women. All sensitive appreciation of a worker's life and horizon has given place to what seems at times a pure intellectual exercise. Indeed the opening chapters set the key. The

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authors prefer to send an imaginary traveler around Great Britain in 1746, observing docks and courts and cottons and mines, instead of utilizing that very human journal of a soldier in Cumberland's army, who had an eye at once for the filth of Edinburgh streets and for the comeliness of Scots women treading clothes in the river. Of course materials for a real history of the common people are scanty. But within the last century a good many workingmen have left accounts of their lives, Francis Place, William Lovett, G. J. Holyoake, the Surrey laborer, not to mention the autobiographies and memoirs—nearly a score of them—of recent labor leaders. To the authors Holyoake is exactly as real as Benjamin Lucraft; the names of both occur twice. If these intellectuals in the labor party are representative of their colleagues, perhaps this book can stand as symptomatic of more than a mere style in historical writing.

Yet it would be misleading to suggest that the authors have not tried to be interesting. They give snatches of doggerel verse to show the spirit and courage of workers; they abstract occasionally from a trial a dramatic bit of cross-questioning; they show now and then a touch of sentiment, and more often still a touch of humor. A few individuals become flesh and blood. Wilkes, whose life Mr. Postgate has written, is the most vivid personality in the book. The personal characteristics of Cobbett, Shaftesbury, O'Connor, Owen and a few others are described at more or less length. Perhaps the unsatisfying quality of this none the less useful book is due to the size and congestion of the canvas, or perhaps to the fact that it is, as the authors say in the foreword, a "strictly co-operative" volume, done by busy men, presumably under pressure.

STANLEY PARGELLIS

SCRIPPS COLLEGE

Race Relations and the Race Problem: A Definition and an Analysis. Edited by EDGAR T. THOMPSON. Durham, Duke University Press, 1939.—xv, 338 pp. $3.50.

Even scientific discussions of the Negro problem in the United States have often betrayed a certain provincialism with regard to the subject of Negro-white relations. This volume should do much toward dissipating this provincial attitude, since in most of the ten essays the problems of the Negro in America are discussed as a phase of the general problem of race contacts. This point of view is set forth in the first chapter by Professor Robert E. Park who within the compass of forty-five pages presents probably the best available

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statement of the nature of race relations as a historical and world phenomenon.

A brief statement concerning the remaining nine chapters will give some idea of the scope and range of topics covered. In the second chapter Professor E. B. Reuter discusses competition and the racial division of labor and differentiates these processes on the human social level from similar phenomena in plant and animal communities. In Professor S. J. Holmes's discussion of the balance of births and deaths among Negroes, we have an excellent succinct statement concerning the struggle of the Negro for survival in American life. Dr. Rupert H. Vance focuses attention upon one aspect of the competition between whites and Negroes; namely, the competition for land in the South. Professor Guy B. Johnson shows how patterns of race conflict, existing throughout the association of whites and Negroes, have grown out of the Negro's resistance to an attempt on the part of whites to maintain a rigid caste system. Mr. Lewis C. Copeland analyzes the various conceptions of the Negro as a "contrast conception" which has been utilized to maintain the moral isolation of the Negro. The plantation as an industrial, social and cultural institution which has set the pattern of race relations is discussed by Dr. Edgar T. Thompson. Professor W. Lloyd Warner and Mr. Allison Davis interpret race relations in the South in terms of caste, complicated by class divisions in both racial groups. In a chapter on the mulatto, Professor E. V. Stonequist presents a clear-cut and fundamental analysis of the rôle of the mixed-blood, especially the mulatto, in the United States, in race relations. Professor Charles S. Johnson writes a concluding chapter in which he sets forth the thesis that racial problems are due fundamentally to economic competition and the exploitation of subject peoples.

As one might expect in a coöperative undertaking of this type, the various contributors have not achieved a consensus in regard to either a definition or an analysis of race relations. But the volume as a whole is free from conflicting or irreconcilable viewpoints concerning fundamentals. In fact, the conflicting notions seem to be due to unavoidable emphases given certain aspects of the problem by the various writers. This book belongs among the growing body of objective and significant studies on the Negro in America; and students of race problems are indebted to Professor Edgar T. Thompson for securing the coöperation of the ten scholars who made the work possible.

E. Franklin Frazier

Howard University

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Revolutions and Dictatorships: Essays in Contemporary History. By HANS KOHN. Cambridge, Harvard University Press, 1939.—xii, 437 pp. $3.50.

In his earlier writings, especially in *Force or Reason,* Hans Kohn has already proved his ability to clarify the most complex and disquieting phenomena of the post-war world by focusing on their fundamentals. Thus he fulfils a most timely task by helping the confused layman to find a rational explanation of an irrational world. This new study serves the same purpose in an even more ambitious and equally successful attempt to trace background, reality and effect of the present totalitarian crisis. It represents a collection of essays written over the turbulent period of the last eight years. Most of them have already appeared in learned publications.

The book covers a wide range of topics opening with three studies on the background of current conflicting forces, dealing with messianism, the French Revolution and Napoleon, and the rise of modern nationalism. It then branches out into an analysis of twentieth-century Europe and her turmoils, taking up the Russian Revolution, the nationality problem and the Soviets, a comparison between communism and fascist dictatorship, the intellectual roots of national socialism, the individual and the state, and the twilight of nationalism. The third part investigates the Near East, this least-known area of contemporary affairs and future entanglements. The concluding essay is a comprehensive reflection upon the totalitarian crisis today in its historical ramifications and its international aspects.

Such an enumeraton certainly cannot describe the amazing wealth of material piled up in his book. One need mention only the author's masterful sketch of the Jewish problem (pp. 390-401) in order to realize the breadth of his analysis. What is even more impressive than scope and intensity is the unity of thought throughout the whole book. This concord is largely due to the few prevailing *leitmotifs* which the author weaves through the disturbing complexity of recent world events. As to approach, if any labeling classification of his well-balanced study may be permitted, it is the moral issue which, in Kohn's opinion, defines the lasting elements of historical development. These spiritual and moral forces, according to the author's analysis, are attacked by the new philosophy of post-war dictatorships, which in absolute contrast to basic concepts of the Western world try to stop its progress and to reverse the whole trend of Western civilization. This gigantic and decisive struggle is in a

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sense an outgrowth of immanent European forces: secularism, nationalism, mass democracy. Today's exaggerated nationalist dynamics, however, may appear to later generations as a last desperate attempt of a pan-nationalism to dominate the world order. The fact that we may have entered another Thirty Years War of nationalism, instead of religion, may only indicate the beginning of the end of nationalism as the organizing political principle. This does not necessarily mean that nationalism is completely disappearing any more than in the seventeenth century religion so vanished. It only means that its boundaries are being re-defined. Such a statement on the future of nationalism is especially remarkable since it comes from one of its outstanding contemporary interpreters.

The other main tenet in Kohn's analysis is a strict separation—in spite of their identical methods and many outward similarities—between fascist and bolshevist revolutions. Whereas fascism, being anti-rational, anti-universal, anti-Christian, is in his eyes the counter-revolution par excellence, bolshevism presents to him in many respects a continuation of the three Western revolutions. One may dispute such a challenging statement on the historical position of these revolutions. In the end, the evaluation will be a part of one's own philosophy of history. No doubt, every interpreter will in his analysis put his own emphasis upon each factor in such complex phenomena. There will be some who will feel that the social aspects, though always realized by the circumspect author, are not sufficiently emphasized (the background or nonexistence of a ruling élite, the crisis of the middle class, rural-urban discrepancies, the impact of unemployment, etc.) in order to make the dynamics and differentiations of modern revolutions fully understandable. Many may find that Kohn's fresh attack upon an overemphasis of the Treaty of Versailles as the main source and justification for rising National Socialism is not doing justice to the actual social and political effects of the treaty system. Others will be impressed by his basically undisturbed belief in human progress and a liberal philosophy which—in the author's mind—certainly does not exclude humanity's temporary aberration from its great aim. There will even be division on the basic tenor of the book. The refreshing straightforwardness of the author—"It is no longer possible in a terrifying world to withdraw like Candide and to cultivate our own garden"—will be either rejected as unscientific or hailed as a liberation of social sciences from their ivory tower.

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Kohn's study reflects the world-wide experience and cultivated insight, the intellectual discipline and scholarly discrimination, the rational systematism and moral fiber of the author—qualities which make his analysis one of the most challenging and worth-while interpretations of the contemporary scene.

SIGMUND NEUMANN

WESLEYAN UNIVERSITY

We Who Built America: The Saga of the Immigrant. By CARL WITTKE. New York, Prentice-Hall, Inc., 1939.—xviii, 547 pp. $5.00.

An immigrant, tearing himself from familiar surroundings and venturing almost alone to an alien land and an unaccustomed life, might well stand as the type of extreme individualist. But immigration as a process is so unmistakably social in character that it could provide by itself a *raison d'être* for sociological techniques in investigation. Social strains in the homeland account for, and result from, the emigrant's departure. His own journey should properly be viewed in the perspective of world-wide migrations of peoples. He enters his adopted country not as an individual about to mingle freely with other individuals, but as the socially-conditioned member of a culture different from theirs. This cultural barrier is accentuated by differences in economic position, and the social problems thus created continue from father to son, complicated by conflicts between the generations and by the coming of new and still different immigrant groups.

If this is the nature of immigration, what meaning or justification can there be in the distinction which Dean Wittke draws in his introduction (p. xviii): "I have tried to confine myself to an historical rather than to a sociological treatment of the subject, although I realize how difficult it is to draw a sharp dividing line between these fields of scholarship"? If this statement is to be explained in terms of the resulting organization of his book, then to Dean Wittke an "historical treatment" means a separate and more or less chronological narrative of each aspect of a problem (in this case, each immigrant nationality), isolated from its context. Such a definition makes impossible from the very start an adequate handling of the theme promised in the title of his volume, the upbuilding of America by the combined effort of all immigrants.

By writing a series of chapters each dealing with a single national group, the author not only fails to make the building of America

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his framework, but he also predetermines to an unfortunate extent the type of material he can use. Dean Wittke is fully aware of the shortcomings of those writings in which representatives of particular immigrant nationalities glorify their fellows and forebears. His greatest service, in fact, has been to winnow some wheat from so vast a quantity of chaff, and to provide in his footnotes a reasonably critical bibliography of this literature. The fact remains, however, that the framework of his study has forced him to pay undue attention to such sources and their trivialities, to the neglect of many important sociological data concerning foreign-born groups as a whole in the American environment.

The author has further weakened his book by self-imposed limitations, particularly the exclusion of "all reference to English immigrants and . . . also the Negro" (p. xvii). *We Who Built America* is a fair title for a "saga of the immigrant", but not if an immigrant is to be defined as Dean Wittke narrowly defines him. Furthermore, in those few chapters where the author actually attempts a synthesis, he is hampered by his own restrictions. Among "Immigrant Utopias" (chap. 12), for example, there should be a place for Ann Lee and the early Shakers, for Owen's New Harmony (mentioned page 345, but not discussed), for the English coöperative colonies in Wisconsin in the 1840's, and for Rugby, Tennessee—all English, but all authentically immigrant and Utopian. Furthermore, a discussion of the present quota laws would seem to require some consideration of the Englishman as immigrant. Finally, the author's narrow and unimaginative interpretation of his theme is demonstrated by his decision not to include among those "who built America" the enslaved immigrants from Africa.

Certain chapters stand out above the others. In addition to the illuminating and important treatment of "Immigrant Utopias" already mentioned, one finds well-rounded descriptions of the "Immigrant Traffic" in chapters so entitled at the beginnings of Parts I and II (but unaccountably not at the beginning of Part III). The colonial period, on the whole, is better handled than the rest; and the final chapter, "Closing the Gates", for which better monographic foundations exist, is satisfactory. Proportions, however, are not well maintained. The last-mentioned chapter, for example, though 47 pages long, devotes less than two pages to American restrictive legislation since the World War. The "new immigration" receives only 67 pages out of 518 pages of text, which should be compared with the 107 pages given to the Germans alone.

ARTHUR E. BESTOR, JR.

COLUMBIA UNIVERSITY

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Words That Won the War: The Story of the Committee on Public Information, 1917-1919. By JAMES R. MOCK and CEDRIC LARSON. Princeton, Princeton University Press, 1939.—xvi, 372 pp. $3.75.

The authors of this work have been associated respectively with the National Archives and the Library of Congress, and the files of the Committee on Public Information which they exploit were transferred to the National Archives in 1937. During the eighteen years of storage, the writers say, the records shrank to less than a quarter of their original bulk, "partly because of the ministrations of the 'Useless Papers Committee' and partly for unexplained reasons." Interesting news, indeed; but as this is the first time these records have been used as a whole for research purposes some description and evaluation might properly have been given.

In spite of the diminished bulk of the materials, however, the book leaves the impression that enough has been salvaged to provide the basis of a fairly comprehensive picture of the multiple activities of the committee both at home and abroad. There are four parts: the first group of three chapters traces the origin of the committee and of censorship; the second group of six chapters reviews domestic activities; the third group of six chapters surveys propaganda abroad; and the final chapter offers a "Blueprint for Tomorrow's CPI". Except the illuminating chapter on the legislative history of censorship, there is little that is new in the portions of the book dealing with "information" at home. The survey of the CPI abroad is highly significant and introduces the American to a little known subject. In the interest of various kinds of propaganda, it has become a favorite indoor sport in recent years to debunk European propaganda in the United States, especially that of the Allied Powers, but here is a hint—only a hint—of what Allied and neutral peoples and governments suffered at the hands of the United States.

There is evident in this book a commendable departure from the generality of writing on World War propaganda in avoiding the use of colorful descriptive adjectives and the sneer method of presentation. Instead, the procedure is direct narration and description, realistic in tone and with a minimum of intrusion of personal opinion. George Creel and his associates come out of the ordeal with somewhat enhanced reputations, and important new documentary materials, which are printed or used for the first time, result in revisions of some earlier conclusions. The final chapter reveals an unavoidable, but

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nevertheless unfortunate, influence upon the whole undertaking—the ever-present consciousness that only a matter of weeks or months may elapse until a new CPI will be again at the task of disseminating "information".

In the introduction the authors disavow the title under which the book is published by reminding the reader that it took more than words to win the war. Also, they explain that they "consciously restricted themselves" to the files of the CPI (p. viii). In other words, the military and naval intelligence services and the State, Justice and Post Office departments and the Censorship Board are yet to be explored by similar studies before the whole scope of World War propaganda and censorship activities of the United States is available. There are some reticences in the present work on conflicts between the CPI and foreign governments, as well as between branches of the American government, especially the Department of State, that need more explicit treatment. Pursued with objectivity, the study of propaganda methods and agencies is an essential phase of history, and this book is unusually free from objectionable features, but the writer cannot close this review without calling attention to the extent to which such study has itself become a propaganda against propaganda, and thereby has entangled this generation in a new illusion which has even more disastrous possibilities because it is characterized by a naïve cocksureness that for the first time in history "it can never happen again."

JAMES C. MALIN

UNIVERSITY OF KANSAS

James Kent: A Study in Conservatism, 1763-1847. By JOHN THEODORE HORTON. New York and London, D. Appleton-Century Company, 1939, for The American Historical Association. —xi, 354 pp. $3.50.

This carefully written biography was awarded the 1939 Albert J. Beveridge Memorial Prize of the American Historical Association. As a study in Conservatism it falls short of providing any guide to a system of thought, probably because the author takes such pains to avoid any justification that would mark him as a Tory, but as a study of the conservative James Kent it leaves little to be desired in thoroughness.

Chancellor Kent labored in that formative era, roughly the first third of the nineteenth century, when, as Dean Pound has said,

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"legal institutions and doctrines and precepts were made over to conform to an ideal of American society by a criterion of applicability to American conditions." The instruments of adaptation were courts of law, not legislatures; and the controls were in the hands of judicial statesmen whose tenure of office was not subject to popular recall. Among his contemporaries, Kent was the most effective craftsman in the accomplishment of this task of building an American jurisprudence. First, on the Supreme Court Bench of New York he achieved an ascendancy over his colleagues "little short of that which John Marshall achieved in his own tribunal" (p. 150). Later, as Chancellor, he framed opinions that, derived largely from Nottingham, Hardwicke and Eldon, gave form to American equity in the same measure that those worthies defined the English system. His decisions in New York persuaded legal opinion in other jurisdictions, more so than those of any other state judge; and Kent's *Commentaries,* which went through five editions under his supervision, made him "the favorite preceptor of the legal profession" (p. 304). As to the comparison with John Marshall, Mr. Horton is able to make the New York jurist more splendid than the Chief Justice of the United States, because "the subjects with which Marshall mainly dealt, formed only a limited chapter of the law; and howsoever minutely he might expound them, he left the broadest areas of jurisprudence still unexplored. Indeed, those areas for the most part lay beyond the limits of his jurisdiction, and if they were to be traversed at all, the task would have to be undertaken by the judges in the several states who, as a general rule, alone were legally competent to touch them. Among such judges, Kent was preëminent" (p. 151 n.). With this in mind, it should be clear that legal opinion was practically unanimous in considering as quite unfortunate the constitutional provision that retired the great man from active service on the bench at the age of sixty years. He had over a score of years left to him, years in which he was a prosperous "lawyer's lawyer" and universal sage.

It is significant that the retirement of the Chancellor, which caused such pain to the sensibilities of the legal profession, was not abhorrent to the general public; and the opinions which served as models of excellence to other judges seldom excited much popular approval. Mr. Horton explains this with reference to the struggle between the property-conscious scions of the old Federalism, who had maneuvered into skillful retreat in the courts, and the equalitarians—Kent called

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them "Jacobins"—who had taken over the strongholds of the legislature. In defiance of good sense, the Democrats responded all too easily to the demands of an enfranchised mob, with the result that new and badly drawn legislation required a judicial review which bravely set aside the popular will. What Professor Corwin has called the doctrine of vested rights has its "final embodiment" in Kent's opinion in *Dash v. Van Kleeck* (7 Johns. Rep. 500), and a constructive interpretation of all law to the same end is the very fiber of all of Kent's jurisprudence. One cannot wonder that Democracy of that period looked, as it does today, to the early retirement of such frankly unpopular judges.

Mr. Horton appears to be at his best when he deals with the analysis of Kent's notable decisions. Here he follows generally in the footsteps of Powell, Corwin and Pound, each of whom has had something to do with the formulating of judgments that are in the chapters, "Giving Laws", and "The Woolsack". There is a nice balance in Mr. Horton's respect for tradition as a force in itself, equal to that of the climate of opinion. There is an awareness of the fact that the "generous oracles of the common law" tended to speak through one who was even on occasion unwilling; and Kent was not wholly wrong when he denied that his will directed his decision making. One more sympathetic toward conservatism might have taken his stand squarely on Kent's opinions and defied a critic to make better law, just as a conservative might have erected a better monument to the *Commentaries* than is to be found in the chapter, "The American Blackstone"; but perhaps Justice Story did that well enough in Kent's own lifetime. Still, it is rather odd that in the whole book there is no reference to natural law, which was very useful to most judges in the early nineteenth century. For the rest of the book, the lives of judges tend to be less exciting than the lives of poets, soldiers or politicians. Mr. Horton is at least true to his classics-minded subject in making his work bristle with the Judge's Latin erudition, but the effect on a reader who does not even read the *Gallic Wars* "with his feet on the fender" is somewhat oppressive. In brief, this is a fine piece of research and a good job of synthesis, but the style suggests the labor of a dissertation not made easier by the weight of its subject.

JOHN T. FARRELL

COLLEGE OF NEW ROCHELLE

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The Life and Times of William Howard Taft. By HENRY F. PRINGLE. New York and Toronto, Farrar & Rinehart, Inc., 1939. —2 volumes. vii, viii, 1106 pp. $7.50.

The author of an outstanding biography of Theodore Roosevelt has produced a two-volume study of Roosevelt's successor in the presidency, written largely from the massive collection of Taft papers in the Library of Congress. As in life the genial personality and cherubic figure of Taft were crowded into the background by the more aggressive characteristics and appearance of Roosevelt, so do many chapters of this study read like a supplement to the Roosevelt biography, in spite of detailed documentation from Taft sources. Although in both studies the author reveals a measure of irritation with Roosevelt and sympathy with Taft, it is Roosevelt who crashes to the fore. Even in the chapters dealing largely with Taft, the reader is conscious of Roosevelt parading in the background. There is a sense of emptiness about the chapters dealing with the period after he has disappeared from the scene.

If Taft, by his own admission, continued to think of Roosevelt as president after his own induction into the office, it is not surprising that many of the people felt the same way about it. The sublime self-confidence of Roosevelt naturally shines out in contrast with the self-deprecatory attitude of Taft. Yet there is evidence that Taft held a stubborn belief in himself not apparent to casual observers. The author of the biography presents the evidence, though he does not greatly dwell upon it. He has the material for understanding Taft as an independent personality, but his picture of Taft is through a camera adjusted to the physiognomy of Roosevelt. In the writing of new books every author finds himself to some extent the victim of the books he has already written. It may be questioned whether the biography of Taft might not have been a better piece of work had not the author previously made his mind the mold for a study of the hero of San Juan Hill.

Roosevelt was always spectacular and startling, quite apart from whether or not his conduct was wise or admirable. He compelled attention. There was little challenge by contrast in a man who, without claim to originality of statement, prided himself that he never stood when he could sit, and never sat when he could lie down. Yet Taft, inert but for a twinkling smile or a merry chuckle, could be a stalwart character, a potent figure at the helm of the most powerful court in the land. There is deceptiveness in the fact that his type of

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activity did not lend itself well to the photography of a vigorous and colorful literary style.

It is significant that throughout his life Taft wanted to be a judge. He prided himself on his work in a lower state court and a lower federal court, even though some decisions seemed likely to do him political injury. He could have gone to the Supreme Court nearly two decades before the appointment was finally made. A powerful influence in holding him back was the persuasion of family and friends who believed that he stood in line for honors which they regarded as higher. Apparently against his own instincts, he followed the advice. Roosevelt made him president. Partisan though he was, he never had a sense of belonging in an executive position won directly or indirectly through success at the game of politics. This is not to say that he served the nation poorly, as civil governor of the Philippines, Secretary of War, and President of the United States. He was not a weak executive, he was not a weak president. As the author shows, he achieved a large part of a reputable program, in spite of a rift in his party in Congress which the policies of his predecessor in Congress had helped to foster. Yet always he was a man with a judicial mind in the position of an executive.

It is perhaps the fact that most of the more active years of his life were lived outside the focus of his own aspirations and conception of his abilities that appears to throw parts of the biography out of focus, and bring Roosevelt into the center of the Taft picture. The full expression of his greatest capacities could come only through work on the bench, and only there could his points of weakness find protection. For many years, because he followed the advice of people who thought otherwise, he was a lumbering draft horse on the race track of partisan politics and presidential manipulation.

In 1921 Taft achieved his goal through appointment as Chief Justice of the United States. He served more than twice as long as his occupation of the presidency. He was an effective head of the Supreme Court. His opinions, if oftentimes more conservative than many would desire, showed that he had not misjudged his judicial capacities. He brought about an important reorganization of the work of the federal courts. All this is made clear in the biography. Yet there is an appearance of haste in dealing with this period which denies it the emphasis to which it seems entitled. In contrast with the extended treatment given to the presidential period of only four years, the analysis of the more than eight years spent as head of a coordinate branch of the government is brief indeed. True, the complex

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activities of the judiciary lend themselves less well to dramatic portrayal than does the rough-and-tumble of party politics, but the story is of the "Life and Times" of Taft, and it ought to follow where he leads, even at the expense of seekers after light reading. A further argument for a more elaborate treatment of Taft's judicial opinions is the fact that a number of important opinions seem to have been colored by his previous experience as an administrator. The compression of treatment of the later years extends to political materials as well as those which are legal and judicial. It is left to a biographer of President Coolidge, for instance, to show Taft a frequent caller at the White House, and a frustrated advocate of the non-political selection of federal judges.

In summary, the work is a distinguished biography of a President of the United States. It might have been more distinguished—and possibly less widely read—had it been focused more directly on Taft and his aspirations, and on his performance in his later years in the office of his choice.

CARL BRENT SWISHER

THE JOHNS HOPKINS UNIVERSITY

France Overseas through the Old Régime: A Study of European Expansion. By HERBERT INGRAM PRIESTLEY. New York and London, D. Appleton-Century Company, 1939.—xvii, 393 pp. $5.00.

A compact, detailed compendium, this book assembles an extraordinary number of excellent data. Too much material, perhaps, is crowded in; every phase of French overseas effort from remotest beginnings through 1815 is at least mentioned. This inclusiveness is possibly a particular merit of the volume, but it somewhat obscures the development of trends and the significance of general features. It is rare, for example, to come upon a sentence with as general and stimulating a character as this (p. 85): "It was when West Indian sugar became important that European dynastic wars reached America." Two introductory chapters on preparation for expansion and such historical backgrounds as the Crusades and the Hundred Years' War lead to the Age of Discovery and Early French Colonies. Each individual overseas enterprise is briefly accounted for in terms of motive, development and ultimate fate. About half of the book carries the subject to the eighteenth century, and the remainder deals with the period from 1715 to 1815. Stress is naturally given to the policy and achievements of Richelieu and Colbert.

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An important contribution of the earlier portion is the correction applied to the common view that only the well-known explorers, colonies or trading companies were active on behalf of French enterprise. There was actually an extraordinary amount of effort, although most of it ended in dreary failure. A baffling number of companies were organized; the author's attempt to do justice by at least mentioning them renders the exposition a bit confusing. A simple list might have been almost as useful, leaving the text free for more general comment and interpretation. French fortunes in Madagascar and the Mascareignes present some less known and seemingly romantic aspects of overseas enterprise. In this connection, as well as in that of Dupleix' career in India, a little more color and something of the exotic background might well have relieved what is a very matter-of-fact treatment. Deserving of emphasis is the discussion of French trade with Spain and the Spanish colonies (pp. 135 *et seq.*). The importance of French activity as carriers in this trade is revealing. France carried and controlled more of the Spanish trade than any other one nation. At one time, in fact, she possessed as much as a "two thirds domination" of this lucrative business. From Spanish trade she profited more than from that with her own colonies, with the single exception of her commerce in sugar with her own possessions.

Before closing with a survey of the Revolutionary and Napoleonic effort overseas, the author devotes a chapter to a general analysis and summation of the colonial work of the Old Régime. It is an interesting and valuable appraisal and should be enlightening to those acquainted only with the oversimplified views of the conventional treatment. Pointing out the distinction between "colonial enterprise" and the process of "Europeanizing", he remarks: "Assuming Europeanization to have been desirable and valuable, we shall have to say that . . . each of these nations [France, Spain, England, Portugal and Holland] was successful. If we insist that success is measured by the valuable material and political returns on blood and treasure spent, we shall find ourselves weighing ponderables and imponderables together, and so be left without standard of measure or equation" (p. 291). With particular reference to the rôle of France, he concludes: "French expansion under the Old Régime was respectably comparable with that of contemporary rivals, and its results at the opening of the Revolutionary period left the French heritage and tradition established in five or six important spots about the world, from which the new and modern empire was in time to evolve."

LAURENCE B. PACKARD

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Soviets in the Arctic. By T. A. TARACOUZIO. New York, The Macmillan Company, 1938.—xiv, 563 pp. $7.50.

Spectacular exploits, like Papinin's wintering party at the North Pole, have frequently called attention to the activities of the Soviet Union in the Arctic. Although Tsarist Russia was aware of the Arctic's economic and strategic importance, Dr. Taracouzio finds that exploration under the old régime was conducted in an "unwise fashion": appropriations were too limited; a planned approach was lacking; and initiative was left to individual explorers. Almost immediately after its appearance, the Soviet government introduced a new method. The government formed special organizations to explore and develop the Arctic according to a definite plan; it appropriated large and ever-increasing sums for these purposes; it aroused enthusiasm for the Arctic among the population; and it coupled exploration and scientific research with the practical aim of economic development. The new method has been fruitful. Dr. Taracouzio shows in great detail and with the aid of statistical material that enormous contributions have been made to scientific knowledge; transportation facilities have increased; mining, lumbering, hunting, trapping, fishing, sealing, agriculture, animal-husbandry, even manufacturing and commerce have advanced. The author cites the government's own "self-criticism" to show defects such as inefficiency and corruption in the management of trade; but he thinks that considerable advances have been made and that in view of the planned approach, backed by enthusiasm, still greater progress may be expected.

Treatment of the native population under the Soviet régime wins the author's approval. The Soviet national policy, which aims to raise the cultural and economic level of the national minorities generally and to insure them political equality with the Russians, has been adjusted to fit the extremely backward natives of the Far North. Efforts have been made to protect the natives from high-handed Russians and to draw them from the primitive nomadic life into a settled, cultured existence. This has entailed the organization of local self-government; the creation of alphabets and the founding of schools, libraries and medical facilities; the establishment of special forms of collectivized agriculture and coöperative industries; the introduction of the natives to such marks of civilization as soap, tooth powder, underwear and phonographs. The author admits that the projected goals are far from realization; but he recognizes the tremendous

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obstacles impeding cultural progress; and he believes that the government is proceeding in the right direction.

The author rounds out his study with a chapter on the legal aspects of the Soviet Union's claims to all the lands and waters extending in a sector from its northern border to the Pole, and he points out the possible difficulties which may arise from the Soviet Union's claims. The book should therefore interest the legal specialist as well as the natural scientist, sociologist, economist and historian. Equipped with maps, numerous appendices and a lengthy bibliography, this work should serve not only as an introduction to the Soviet Arctic for the general reader, but also as a useful reference book for those especially interested either in the Soviet Union or in the Arctic as a whole.

HAROLD R. WEINSTEIN

NEW YORK CITY

Co-operation at Home and Abroad. Vol. II: *1908-1938.* By CHARLES R. FAY. London, P. S. King and Son, Ltd., 1939.—x, 540 pp. 18s.

The first volume of this work was published in 1908. The present volume continues the history of coöperation in the United Kingdom and in Western Europe and has been broadened to include selected countries of Eastern Europe, of Asia, the United States and Canada.

In the first part of his study, Dr. Fay presents a general view of coöperation from the standpoint of its evolution as an idea and its significance as an economic form. The purpose of the author is to show that the "movement is a synthesis which embraces industry as well as agriculture, consumer as well as producer" (p. 6).

The development of this point of view should be of interest to economic theorists because Dr. Fay treats the consumer coöperative movement differently than do Dr. Horace Kallen and Dr. James P. Warbasse who would put the consumer in the center of the picture. (See POLITICAL SCIENCE QUARTERLY, June 1937, for review of books by these authors.) Dr. Fay holds the consumer movement as important and worthy of development but does not see it becoming the sole economic force in modern society. Furthermore, he sees coöperation as a compromise with the world in which organized consumers must work out their relations with agriculture, labor and the State. He feels that we are in need of a balanced society of three sections, private, coöperative and State, but that "it is desirable to do by voluntary coöperation as much as is technically possible" (p. 25).

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Dr. Fay observes that coöperative performance among consumers came from England and that its theory came from France where Professor Charles Gide worked out the doctrine of consumers' coöperation. American coöperators will probably resent the fact that no mention is made of their consumer movement anywhere in the book.

In the second part of this volume, the author discusses industrial coöperation in Great Britain and in continental Europe. He finds that harmonious relations exist in England between consumer societies and copartnership societies of workers. Also the coöperative wholesale is buying certain products from and selling other goods to agricultural coöperatives wherever possible. An interesting chapter is the one dealing with coöperation in the totalitarian states.

After discussing the background of modern agriculture and the relationship of coöperation to the State, the author devotes several chapters to agricultural coöperation in the English-speaking world among which there are two fairly good chapters on the United States and one on Canada. He observes that through coöperation the farmers are trying to recover what industrialism has taken from them.

The Scandinavian countries, especially Sweden, are given detailed attention in Part IV which contains many interesting first-hand observations. The author rejoices in the close relationship existing between the agricultural and the consumer movements in Sweden. In Finland and Denmark he noted a high degree of development of agricultural coöperation. A supplement is given over to agricultural coöperation in other European countries.

There is a good deal of current interest in coöperation, and the observations and the attempt at synthesis on the part of Dr. Fay are in striking contrast to the point of view of most American coöperative theorists. For this reason, the first part of his book deserves the attention of students of the coöperative movement. The remainder of the book offers material on agricultural and consumers' coöperation throughout most of the countries of the world, the only outstanding omission being consumers' coöperation in the United States.

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BOOK NOTES

Dr. Louis L. Snyder's *Race: A History of Modern Ethnic Theories* (New York and Toronto, Longmans, Green and Co., 1939; x, 342 pp. $3.00) is a valuable addition to the historian's reference shelf. More fully than any previous writer on the subject, Dr. Snyder charts the course of race thinking since the French Revolution and shows to what seemingly incongruous but basically logical movements and interests the notions of race-differences, race-superiority, and race-affinity have attached themselves. His survey impartially treats of France, Germany, England and the United States and refers sufficiently to other countries and continents to give an idea of the quasi-universal sweep of racialism as a category of modern thought. Dr. Snyder exposes himself to criticism on very few points, and in the light of his comprehensive achievement one is tempted to suppress all mention of them. Nevertheless, the few are perhaps of general enough interest to deserve notice. One is Dr. Snyder's ambiguous use of the word " romantic "—a use which is common enough to be excused in anybody but an historian. For it is clear that if romantic is to mean foolish, fantastic, and untrue to fact, then its use as an historical term describing a whole generation of men begs a very important question and suggests to the reader's mind all sorts of unhistorical conclusions. Secondly, Dr. Snyder's treatment of Gobineau suffers from incompleteness—not that he does not devote enough space to him, but that the space so devoted deals mainly with the *Essay on Inequality*. Now it ought to be a cardinal principle in writing the history of ideas that the reduction of a man's thought to what he expressed in a single work is falsification. That single book may be the most striking or the most popular (though neither is true of Gobineau's *Essay*), yet even so, a man of scope and genius has a right to be heard in full, at least by the distant and semi-detached historian. Lastly—and this, though it be a very minor fault, will probably strike the reader more forcibly than the previous two—Dr. Snyder's book is spoiled by an excessive quantity of misprints in proper names. In a book dealing with so numerous and often so obscure a company of authors, this failure of accuracy must detract from the utility of the book. I can only wish that Dr. Snyder's book will go into the second edition which it deserves for its merits and thus enable him to repair at least these mechanical errors.—JACQUES BARZUN, Columbia University.

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This volume on the political process—*Swords and Symbols*: *The Technique of Sovereignty* (New York, London, Toronto, Oxford University Press, 1939; 168 pp. $2.00) by James Marshall—sheds no new light on an old subject matter. It is a study of the means by which power is exercised—political force, economic might and propaganda. The author draws on familiar material and covers a wide terrain. Much of his analysis is superficial, in particular his chapters on ethics and liberty. However, he wisely emphasizes a frequently neglected aspect of the subject: the limited nature of all power arising from both the quality of available weapons and the social conditions under which they must be used. As York remarked in Shakespeare's *Richard II:*

> But if I could, by Him that gave me life,
> I would attach you all and make you stoop
> Unto the sovereign mercy of the King;
> But since I cannot, be it known to you
> I do remain as neuter. . . .

This study is an attack on the traditional legal theory of sovereignty. The author holds that *in fact* sovereign power is never absolute, and *legally* it is always limited by customs, precedents and immunities which the sovereign recognizes in practice, and usually in principle, on pain of rebellion. But the author provides no clear-cut alternative to the legal theory which he combats. He defines the sovereign group as the ruling class exercising dominant power in the state. Unfortunately with no systematic treatment of the grades of power in the state structure, we remain confused as to the relation of the ruling class to organs of government, to other classes, and to the community as a whole. We are never quite sure how Mr. Marshall locates the ruling group and who or what is actually sovereign at a given time. This confusion could have been corrected by a more rigorous analysis of the different levels of control in state life. The one outstanding virtue of the volume is its accumulation of arresting illustrations.—Dorothy Fosdick, Smith College.

A good book proceeds from a sound idea elaborated in plan and text by one capable of its execution. *Inside the Department of State* (New York, McGraw-Hill Book Company, Inc., 1939; xiii, 328 pp. $3.00), by Bertram D. Hulen, is such a book. Mr. Hulen, as a correspondent for many years, has seen the Department of State in action and reported the results with the balance and judgment required for the Associated Press and *The New York Times*. He has told the American citizen what kind of a mechanical, physical and

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(shall we say?) spiritual instrument steers the ship of state through a troublous world. He offers a neatly written and living narrative, intensely accurate in its raw facts, its interpretative passages, its use of anecdote and its analytical aptitude. He who knows the Department of State will recognize the photograph; the reader who does not will not have his vision distorted by any word of Mr. Hulen's text. The book is not scholarly in the formal sense, but such a book should not be. No footnotes support statements because the story is of what and how rather than of authority for doing. No detailed idea of organization is given because attention is focused on how the machinery works, with materials at hand or not at hand. For the reader the plant is in operation, and the guide knows how to make the processes visual. The suavity of the author makes the book slightly too sweet. Emphasizing intimately what the Department intends to do and how the intention is carried out, he has not felt any urge to tell why the machinery sometimes has not worked or personnel has not clicked. If straight elucidation gave Mr. Hulen no place for critical gossip, it did give him scope to provide his countrymen with a well-focused photograph of what the Department of State is in almost all circumstances and what it intends to be—the efficient, responsible agent of the American people in a complex world.—DENYS P. MYERS, Fletcher School of Law and Diplomacy.

Charles Rist's *Histoire des doctrines relatives au crédit et à la monnaie depuis John Law jusqu'à nos jours* (Paris, Recueil Sirey, 1938; 471 pp. 90 fr.) will be welcome indeed to the few remaining advocates of the reëstablishment of an international gold standard. The book ably blends history with the theory of money, finance and banking. It is a history, not "of books or of men, but of ideas." The opening chapters analyze eighteenth-century confusion between credit and money, as seen in the doctrines of Law, Cantillon, Adam Smith and Count Mollien, and eighteenth-century thought concerning the effects of the precious metal inflow upon prices and interest rates. The next few chapters deal with Ricardo, Thornton and the Bullion Report, the rôle of Tooke, and the Currency School-Banking School controversy. In chapter vi, Professor Rist compares gold production and commodity price movements from 1850 to 1936, with especial emphasis on the pre-war period, and the "quantitative" and "anti-quantitative" interpretations thereon. Then follows a description of the "mechanism of action of gold and discount rate on prices", including the theories of Cantillon, Newmarch, Marshall, Wicksell, Cassel, Keynes and Hawtrey. Professor Rist's concluding chapters

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deal with the general theories of money advanced in the earlier years of this century, and the theory of central banking, which he traces back to Thornton and Smith. The conclusions reached in this book will be most welcome to those who oppose monetary management, "national" monetary policy, and the disastrous relegation of gold to the distant background. Professor Rist places the alternatives squarely before the reader. On the one hand, there is an international standard with the accompanying risks of long price uptrends or downtrends, but trends common to all the world; on the other is a "national" standard with its attendant "war of moneys", and all the instabilities and the obstacles which it signifies, such as fluctuating exchange rates, internal price movements divergent from external ones and wearisome capital movements from nation to nation. Professor Rist derides the monetary Utopians who hope, by monetary manipulation, to cover all the faults and abuses to which peoples and governments have submitted the economic and money system and to escape from the restrictions imposed by gold against monetary and financial arbitrariness of governments. He maintains that only reliance on gold is certain, and an attempt to rely on paper is shaky and uncertain. Only gold can serve as the basis of international monetary relationships, and even the "managed" money systems, so called, are based on gold, if only indirectly. Return to gold is now seen as an obvious necessity, to a gold standard, frankly and openly proclaimed, with the discipline implied in that standard respected by all the nations. Professor Rist does not hold out for a stabilized price level and, in fact, maintains that progress in European civilization and the modernization of Europe after the discovery of America have been greatly facilitated by gradually rising prices. But this does not mean that he espouses currency depreciation as a means of "dissimilating financial prodigality" and of "organizing chronic fiscal deficits." —JAMES D. PARIS, Great Neck, New York.

Welfare finance has become a problem of first importance in this country so recently that the literature in the field, with reference to both theory and practice, is scattered and inadequate. Consequently, William Withers' *Financing Economic Security in the United States* (New York, Columbia University Press, 1939; x, 210 pp. $2.75) is a welcome addition to the meager list of publications on this subject. The author begins with an interesting analysis of welfare finance in a capitalistic economy. This is followed by a brief history of federal relief financing and the social security program. The main emphasis of the book, however, is on the ability of the United States to

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finance welfare, the economic effects of alternative methods of support and a definite program for national financing of economic security in this country in the immediate future. The author concludes that the capacity of the United States to pay for public relief and social security has thus far exceeded actual governmental expenditures by a substantial margin, and that a material increase in expenditures for these functions is needed, at least for the present. Moreover, he believes that such expenditures will stimulate business recovery. The additional cost should be met, in the author's opinion, from progressive taxes, especially income taxes, since the payroll tax will, in the long run, be borne mainly by the laborer and will, in consequence, reduce purchasing power, real wages and employment. A complete national system of relief and social security, including unemployment insurance, is favored, with substantial equalization among the states. The book is well organized and clearly written. The author's convictions, although quite positive, are well supported, and the student of welfare finance will find this work very useful whether or not he agrees with the conclusions that have been drawn from the evidence. —MABEL NEWCOMER, Vassar College.

Federal grants-in-aid to the states and state grants-in-aid to their local governmental subdivisions have come to fill a most important place in the finance and administration of government in the United States. In recent years such grants have increased rapidly both in number and size. Therefore the task of investigating their manifold ramifications is well-nigh Herculean. Professor Henry J. Bittermann is by no means daunted by it, for, in *State and Federal Grants-in-Aid* (New York and Chicago, Mentzer, Bush & Company, 1938; x, 550 pp. $4.00), he covers the broad field of both administrative and financial interrelationship between the federal and state governments under grants-in-aid as well as between the states and their local units. The volume, therefore, suffers from the advantages and disadvantages of so large an attempt. While indicating the nexus of interrelation and the consequent complexity and size of the problems under discussion, Professor Bittermann gives a clear view of the field; on the other hand, he cannot probe deeply into the questions which his discussion raises. This lack is particularly apparent in the treatment of the administration of the various state and federal grants, for there the book seldom penetrates below the surface or envisages the realities of the administrative situation. The major emphasis of the volume is, however, on the financial aspects of the problems under discussion and in this field it is a pioneer in its exploration of data and in its contribu-

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tion to understanding. The volume is marred by a large number of slips in proofreading and by occasional misstatements, such as "under the *theory of separation of powers* the federal government cannot directly intervene in state or local administration" (p. 8) (italics mine).—Jane Perry Clark, Barnard College.

Nineteenth-century Balkan crises had generally been interminable and every generation had emerged from one somewhat battered, albeit with an amazing fund of information about Balkan monasteries, customs and topography. The Bosnian affair of 1908-1909 might well have followed precedent had not Prince von Bülow, at a time when Russia was in no mood to fight, undiplomatically demanded of Izvolsky "a precise answer—yes or no" (p. 194), concerning the proposal to abolish article 25 of the treaty of Berlin. Russia capitulated and then notified her allies, England and France, of her "great sacrifice . . . in the interest of peace" (p. 199). The central thread of the narrative which Professor Bernadotte E. Schmitt recounts so admirably, in *The Annexation of Bosnia, 1908-1909* (Cambridge, at the University Press; New York, The Macmillan Co., 1937; viii, 264 pp. $3.75), is the diplomatic duel between Baron von Aehrenthal and Izvolsky. Their desire for a little action evoked in the first months of 1908 a minor flurry over rival Balkan railway projects, then led them to revive more grandiose designs. They contemplated outright annexation of Bosnia, Herzegovina and the opening of the Straits. The Young Turk revolution of the latter part of July gave opportunity to advance their plans. A Moravian castle was the setting for private conversations and their much disputed "bargain" in mid-September. Into the *guerre à outrance* which resulted after the two conspirators parted at Buchlau the entire corps of diplomatists eagerly dashed, provoking a serious situation from which it took their combined intelligence and German bluntness another six months to extricate Europe. Numerous chapters are naturally devoted to the events, exchanges of views and official correspondence that ensued between the *fait accompli* of annexation in early October of 1908 and their unqualified recognition of change in the Balkans by the Entente Powers in the spring of 1909. A staggering array of lying diplomats whose wranglings are aptly termed "almost the nadir of diplomacy" (p. 244) is pictured. Lord Grey's conception of firmness provides an amusing page. The various foreign ministers were busily engaged in drafting and quibbling over the "assurances" Serbia was to offer the Dual Monarchy. Grey strongly objected to the Austrian draft since it "entailed either humiliation or war", and, if Aehrenthal continued

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to reject his text, Grey threatened to publish a Bluebook! (p. 215) Oddly, Izvolsky preferred Aehrenthal's text, and, on March 31, Serbia resentfully presented "her" note which Austria accepted. Although the author had previously published some of his material in the *Slavonic Review,* further intensive culling of available documents, mature integration and presentation make his study an attractive addition to the relatively small number of authoritative monographs on pre-war crises.—WALTER G. WIRTHWEIN, New York University.

A decade ago, Professor Gooch voiced the opinion that, since the rapprochement between Great Britain and France soon after the turn of the century was a cardinal factor in world politics, every scrap of information on how it came about was of great value to the student of international relations. *Egypt and the Formation of the Anglo-French Entente of 1904* (Philadelphia, University of Pennsylvania Press; London, Oxford University Press, 1939; x, 141 pp. $1.50), by Joseph J. Mathews, was conceived and written as a contribution to an understanding of the larger subject and, as such, it adequately fills its purpose. The question of Egypt was, of course, a major source of conflict between the two Powers and no understanding could be arrived at until it had been settled to the satisfaction of both. It is the author's contention that the Moroccan side of the agreement has been overemphasized and that the Egyptian angle has, thus far, failed to receive the attention it merits. Drawing his evidence largely from contemporary documents and memoirs, he demonstrates that British statesmen viewed the Nile valley settlement as the most important part of the proposed compact and that public opinion deemed the substantial concessions made to France elsewhere a small price to pay for gaining a free hand in Egypt. The fact that French statesmen had, in reality, abandoned all idea of strengthening their position there and that they held Morocco to afford more than ample compensation for any claims they might have in the other country fully explains their readiness to fall in with British proposals and the ease with which the understanding was finally effected. Professor Mathews' modest volume —obviously a doctoral dissertation—raises many interesting questions and it is hoped that he will undertake to answer them in detail in a comprehensive study of the whole matter of the Entente for which he is admirably equipped.—LOWELL J. RAGATZ, The George Washington University.

Sir Robert Gower's *The Hungarian Minorities in the Succession States* (London, Grant Richards, 1937; 123 pp. 2s. 6d.) offers a concise "recital of those grievances under which the Hungarian Minor-

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ities in the Succession States are suffering." The substance of the study, written in the evident hope that Great Britain would be stimulated to do all "in its power to facilitate the just treatment of the aggrieved nations," is included in three twenty-page chapters dealing with the treatment of the Magyars in Rumania, Yugoslavia and Czechoslovakia, respectively. In each case emphasis is placed on the restricted political, press and educational rights accorded the Magyars in contravention of the minority-treaty guarantees. Several instances are presented of injustices practiced upon Magyars, but the subject is not labored. Obviously sympathetic to the Hungarian demands for revision of the Treaty of Trianon, the discussion remains sane and calm in tone, with evident care to avoid lurid exaggeration. On the diplomatic side the volume is critical of the long-continued French support of the Little Entente and is prophetic in its rhetorical question: "Who can tell whether . . . Russia or Germany may suddenly appear in the Middle Danube valley and in the Adriatic?" Still confident, at the time of writing, of the political potentialities of the League of Nations, the author suggests that the minorities problem in the Little Entente states be solved through the setting up of effectual League control over national minorities and by treaty revision in favor of Hungary through the invoking of Article 19 of the League Covenant.—WALTER CONSUELO LANGSAM, Union College.

An analysis of the Spanish Constitution of 1931 with an account of the framing process and the accompanying debate has been provided by Rhea Marsh Smith in *The Day of the Liberals in Spain* (Philadelphia, University of Pennsylvania Press; London, Oxford University Press, 1938; x, 341 pp. $3.50). The title is misleading, for the author has not attempted to present a general picture of Spain in this period. A rigid, topical arrangement of introductory chapters on the Church, the army, Catalonia, the land problem, and the liberal constitutional movement of the past century sometimes obscures the presentation of these interrelated subjects. This part of the book leans heavily on general works by Altamira, Ballesteros, Zabala y Lera, and Madariaga, and a number of errors suggest imperfect digestion of the material. The national income for 1930 is misstated (p. 10), John II placed in the wrong century (p. 22), a questionable generalization is made about the Constitution of 1876 (p. 57). The era of the dictatorship of Primo de Rivera is inadequately covered. The central part of this study is based solidly on sources: the *Diario de sesiones* of the Cortes, other official documents, personal memoirs and commentaries, and, to a limited extent, the press. There is a

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clear and careful summary of the organization of the Cortes, the work of the *comisión jurídica asesora,* of the constitutional committee of the Cortes, and the debate on the various articles on national organization, individual rights, property, religion, the family, education, and finally the powers of the executive, the legislature and the judiciary. Some readers would have welcomed a fuller treatment of the relation of this constitution to others, notably those of Mexico (1917) and Germany (1919). An English text of the document would also have been a useful addition. The preface and conclusion indicate a mildly liberal bias. The constitution is condemned, however, as the work of doctrinaire idealists. Elsewhere in the book, events and attitudes are chronicled without interpretative comment and the type of evidence which might support this conclusion is not included. Broad treatment of a period can hardly be expected in a monograph, but an account of the constitution with so slight an effort to relate it to political parties, the labor and the socialist movements, or economic conditions in the era in which it was adopted may justly be considered narrow. Typographical errors are scarce, but poor translation has led to misleading diction in some instances ("acts" p. 103, "registered" p. 202, also pp. 113, 125, 164, 226). Some translated passages are awkward (pp. 78, 80, 229, 235). In conclusion, the weakness of this work lies in its failure to relate the constitution adequately to the past and to the contemporary scene; its strength, in its careful use of the strictly constitutional records.—CHARLES C. GRIFFIN, Vassar College.

The third volume of the Inter-American Historical Series is *A History of Brazil* (Chapel Hill, The University of North Carolina Press, 1939; xxv, 374 pp. $5.00) by João Pandiá Calogeras, translated and edited by Percy Alvin Martin. It is a translation of the author's *A Formação Historica do Brazil* which is based on a series of informal lectures given in 1930 before a summer school for foreigners held in Rio de Janeiro. The work is not a detailed history of Brazil but rather an essay on the growth of the nation. It presents an outline of the forces which have influenced the history and traces the evolution of the people from a colony into a nation, giving the high lights which serve to carry the story along and make it understandable to the reader. An excellent feature is the number of pen sketches of outstanding characters who have contributed to the formation of the empire and the republic. The distribution of space to the three periods of Brazilian history—the colony, the empire and the republic—is most satisfactory. Special attention is given to the place of Brazil in South American history and the relations of the United States and Brazil.

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The volume, having for its theme national unity, is fair, critical and illuminating. The author was not only a historian of note but also an active statesman and politician. He served his country in numerous important posts and, consequently, had intimate knowledge of the factors which entered into the evolution of the country. Among his numerous works this volume has had wide acceptance in Brazil; consequently, it was an excellent choice for translation into English and inclusion in this series. The selection of Dr. Martin for translator and editor is equally fortunate. He encountered difficulties in his task due to the character of the Portuguese language and the style of the author, and, hence, a free translation has been made. Certain omissions, expansions and rearrangement of materials have not been indicated, but Dr. Martin has ably succeeded, nevertheless, in rendering in English the spirit and thought of the author. The editor has provided an introduction outlining the career and work of Dr. Pandiá Calogeras and a bibliographical essay suited to American needs. This volume, the last to appear under the editorship of the late Dr. James A. Robertson, maintains the high standard set in the earlier volumes of the Inter-American Historical Series and is a welcome contribution to the historical literature in English about Latin America. It serves to enlarge the knowledge about one of our neighbors and thus contributes to a better understanding of the people and country of Brazil. —ROSCOE R. HILL, The National Archives, Washington, D. C.

The second volume of the American Cavalcade Series—*Railroads and Rivers* (Boston, L. C. Page & Company, 1939; xv, 334 pp. $3.50) by William H. Clark—is primarily a history of railroads in the United States. An earlier book by the same author, *Ships and Sailors,* presented a brief popular history of maritime transportation, and this second volume purports to complement it by telling the story of inland transportation. However, three brief chapters and a few pages at the very end suffice to describe the development of canal and river traffic, and the remaining thirteen chapters are devoted to railroads. Such a subject can be treated only in broad outline in so small a space; for the most part Mr. Clark has skilfully interwoven broad generalizations about railroad progress with concrete anecdotes and specific examples. The period before 1860 is treated more extensively than any other, since the general public, for whom the book was written, is less familiar with the relatively obscure achievements of railroad pioneers than with the sensational activities of the Huntingtons, Goulds, Vanderbilts, and other leaders of the post-Civil War decades. At times Mr. Clark seems more intent on proving the evils of govern-

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ment control or ownership of industry in general, and the transportation industry in particular, than on telling his story; that his sympathies are definitely on the side of the employer is manifest by his dismissal of the complexities of the Pullman Strike with the assertion that "any enterprise of the gigantic scope of the Pullman organization can hardly hope to escape labor difficulties under modern social conditions" (p. 140). There are a few minor inaccuracies of fact, and some of Mr. Clark's generalizations, particularly those relating to general economic conditions at a given time, are of dubious validity. But errors such as these are almost inevitable in a very general book aimed at popular consumption, and Mr. Clark has compressed into a few interesting pages the broad outlines of a significant industrial development. He is at his best when explaining, in terms easily understood by the layman, the development and importance of such railroad fundamentals as the construction of the roadbed, air-brakes and block-signalling.—E. G. CAMPBELL, The National Archives, Washington, D. C.

Harvey Wish's brief interpretation of *George Fitzhugh, Conservative of the Old South* (Charlottesville, Green Bookman, Inc., 1938; 39 pp. 75 cents) possesses considerable historical value and contemporary pertinence. Mr. Wish gives a few paragraphs to an outline of Fitzhugh's life and then, quite properly, devotes the major portion of his work to an analysis of Fitzhugh's philosophy and the response which that philosophy evoked from the rulers of the slaveholding South. One observes an ideology which bears striking resemblance to modern fascism: racism, glorification of war, denunciation of liberty and deification of discipline, with their concomitants, the renunciation of rationalism and the adoption of mysticism. And one notes, what is today rather slurred over, that these ideas represented, according to Southern leaders themselves, precisely the views and aspirations of the slaveholders. Fitzhugh insisted that slavery was the only practical solution of the problem of class conflict. Wish states this, but one would like to see how, if at all, Fitzhugh reconciled that idea with the existence in the South of an elaborate apparatus of class control, its frequent application for purposes of suppression, and the ever growing class consciousness of the non-slaveholding whites. Mr. Wish accepts much too readily the assumption that the pro-slavery argument was pounded out of an annoyed South by the offensive of the Abolitionists. It has recently been shown that there is as much reason to believe the Abolitionists represented a defensive movement on the part of free society against the attacks of the slaveholders as

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there is to believe the opposite. It may again at least be questioned whether the policy of reconstruction was "vindictive" toward "the South" (p. 13). That policy was aimed against the former oligarchy, a group which was far from being, in itself, "the South". It is difficult to accept Fitzhugh's idea that "socialistic philosophy restricted individualism" (p. 17). A good case has been made for the argument that only under socialism will individualism have any real vitality.—HERBERT APTHEKER, Brooklyn, N. Y.

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